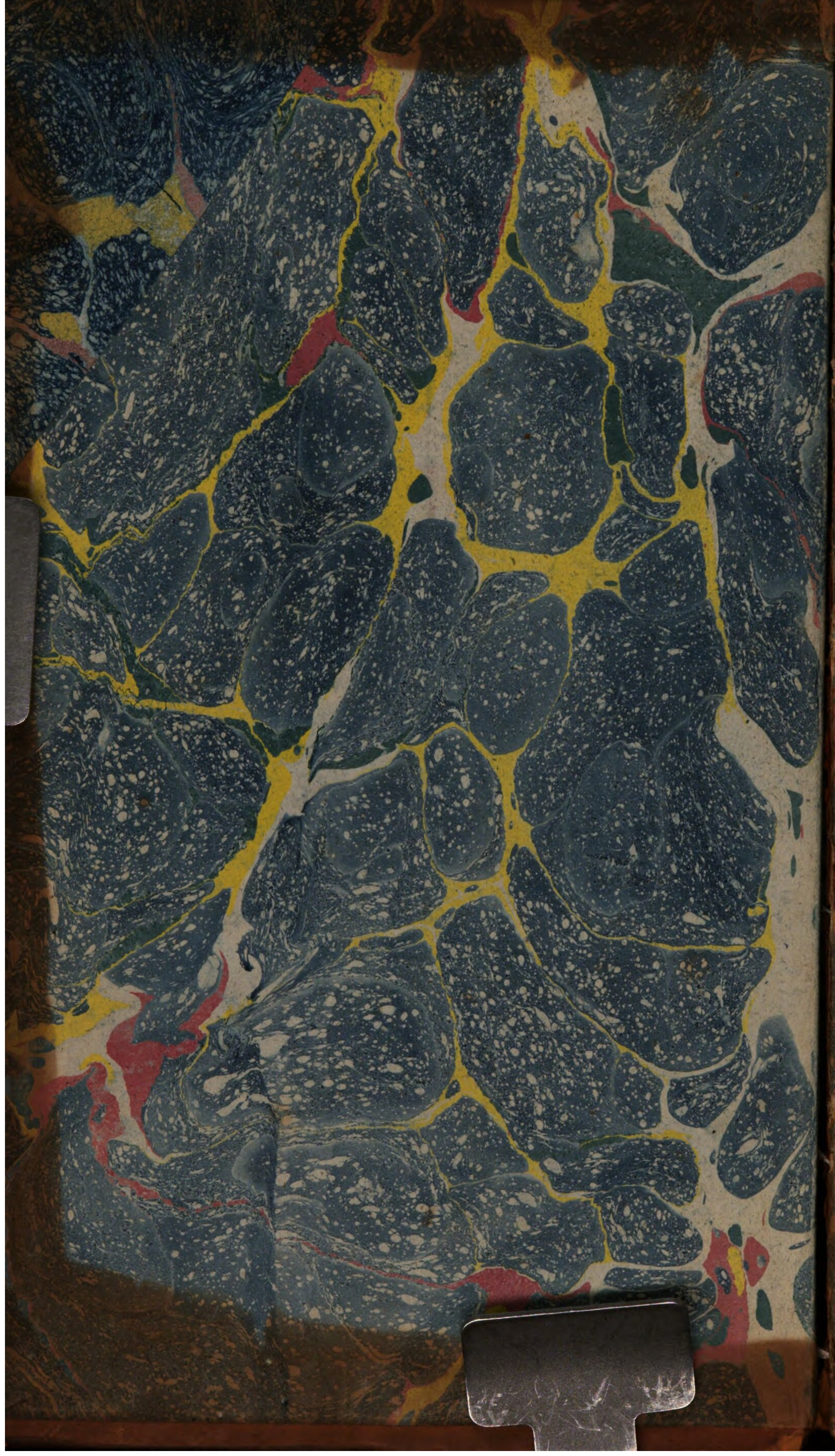






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DIGESTED ABRIDGMENT

COMPARATIVE VIEW,

Statute Law

ENGLAND AND IRELAND

TO THE YEAR 1811

AND A FULLY ASSIGNED COPY OF THE

NEW W. HARRINGTON'S

AND A

CHRONOLOGICAL TABLE OF THE STATUTES

AND

INDEX TO THE WORK.

BY

BY HENRY HARRINGTON

HARRINGTON AT LAW,

OF THE

OF THE

THE

HARRINGTON AND CAMPBELL, PRINTED TO THE UNIVERSITY

1811

A
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AND
COMPARATIVE VIEW,

OF THE
Statute Law

OF
ENGLAND AND IRELAND,

TO THE YEAR 1811, INCLUSIVE;

ANALYTICALLY ARRANGED IN THE ORDER OF

SIR W. BLACKSTONE'S COMMENTARIES:

WITH A
CHRONOLOGICAL TABLE OF THE STATUTES,

AND AN
INDEX TO THE WORK.

BY JOSEPH GABBETT, ESQ.

BARRISTER AT LAW.

VOL. II. PART II.

Dublin:

GRAISBERRY AND CAMPBELL, PRINTERS TO THE UNIVERSITY.

1812.

DIGESTED ABSTRACT

COMPARATIVE VIEW

OF THE

Statute Law

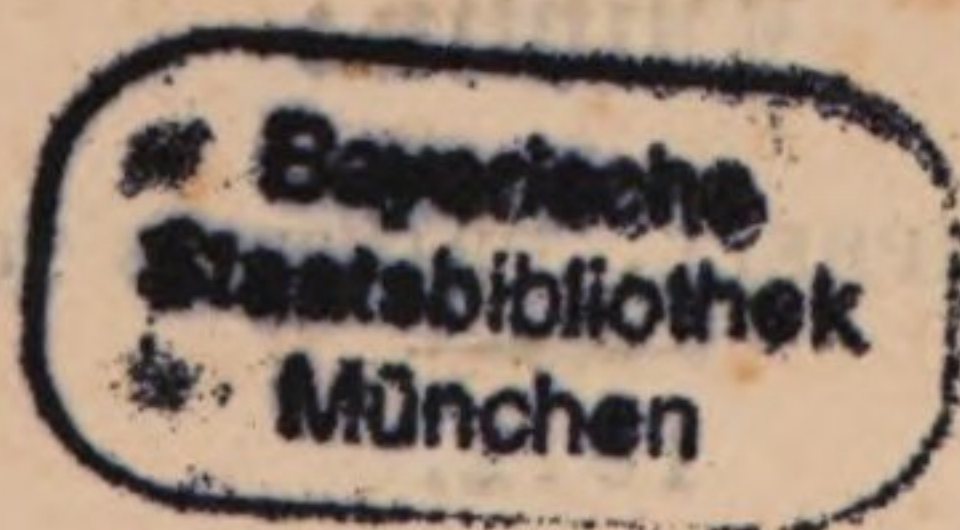
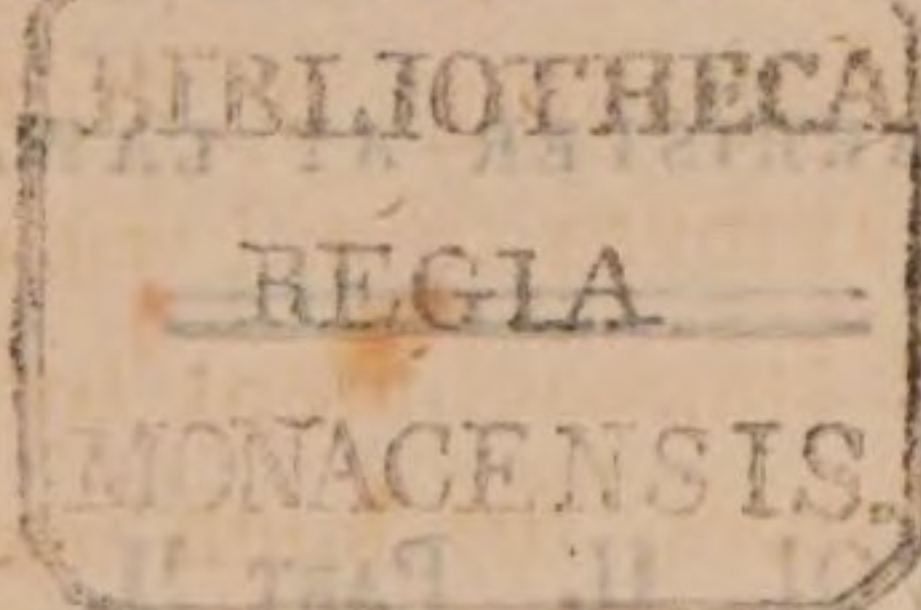
OF

ENGLAND AND IRELAND

CHRONOLOGICAL TABLE OF THE STATUTES

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CHAP. XI.

Of Homicide.

THE last division of public wrongs is into such crimes and misdemeanors as more peculiarly affect and injure individuals or private subjects, whether in their persons, their habitations, or their property.

To the head of *justifiable homicide*, may be referred § 1.
the clauses of several statutes which have been already *Killing persons attempting to murder, rob, &c. justifiable.*
stated in the preceding pages (617. 9. 630. 823. 8.) of this book. And the 24 Hen. 8. c. 5. Eng. declares or *24 Hen. 8. c. 5. Eng.*
enacts, that if any person be indicted or appealed for the death of any evil disposed person attempting feloniously to murder or rob any person in or nigh any common highway, cart-way, horse-way, or foot-way, or in his mansion, messuage, or dwelling-place, or feloniously or burglarily to break any dwelling-house or mansion-house [*in the night time,] and the same by verdict be found, he shall not forfeit any lands, tenements, goods, or chattels, for the death of such person so slain, but shall be thereof fully acquitted, as if lawfully acquitted of the death of such person. The 15 Car. 1. c. 9. Ir. is the *15 Car. 1. c. 9. Ir.*
corresponding statute in Ireland. And the 28 Hen. 6. *28 Hen. 6. c. 3. Ir.*
c. 3. Ir. also enacts, that it shall be lawful for every liege man of the king, to kill all notorious thieves, and thieves found robbing and spoiling, or breaking houses, by night or by day, and thieves found with the manner, and to take them without impeachment by the king, his justices, officers, or ministers, for such manslaughter or taking. And every man that kills or takes such thieves, shall have one penny of every plough, and one farthing of every cottage within the barony where the manslaughter is done, for every thief. And the town where the said
Reward for killing or taking thieves.
VOL. II. 3 N manslaughter

* The preamble to the 15 Car. 1. c. 9. Ir. adds, "or in the day time."

manslaughter is done, and other four towns next to the said town, which were before charged with the escapes for such manslaughter, shall be quit of said escapes, without impeachment in any court, or payment to any officer. And the sheriff of the county shall have power to levy the money aforesaid within a month after the manslaughter, and shall deliver it to him that made the said homicide: And if the sheriff be negligent in levying the money as aforesaid, he shall pay it to the party.

§ 2.

*Manslaughter
when a capital
felony.*

1 Jac. 1. c. 8.
s. 1 & 2. Eng.

II. The benefit of clergy is taken away from one species of *manslaughter* (or homicide without malice,) by the 1 Jac. 1. c. 8. Eng. which enacts, that every person which shall stab or thrust any person that hath not then any weapon drawn, or that hath not then first stricken the party which shall so stab, &c. so as the person so stabbed or thrust shall thereof die within 6 months then next following, although it cannot be proved that the same was done of malice forethought, yet such offender, being convicted by verdict, confession, or otherwise according to law, shall be excluded from the benefit of clergy, as in the case of [*wilful murder.] Provided (s. 3.) that this act shall not extend to the killing of any person *se defendendo*, or by misfortune, or in any other manner than as aforesaid; nor shall extend to any person which in keeping and preserving the peace shall commit manslaughter, so as the manslaughter be not committed wittingly, willingly, and of purpose, under pretext and colour of keeping the peace, nor shall extend to any person which in chastising or correcting his child or servant, shall, besides his intent and purpose, chance to commit manslaughter. The

s. 3.

Proviso.

7 W. 3. c. 11.
Ir.

7 W. 3. c. 11. Ir. is a transcript of this statute, except as noted in the margin.

§ 3.

*Poisoning any
person a capital
felony.*

1 Edw 6. c. 12.
s. 13. Eng.

III. Next as to *murder*: By the 1 Edw. 6. c. 12. s. 13. Eng. all wilful killing by poisoning of any person, shall be deemed wilful murder of malice prepensed; and the offenders therein, their aiders, abettors, procurers, and counsellors, shall suffer death as in cases of wilful

* "Felony without benefit of clergy" in 7 W. 3. c. 11. Ir. murder being then treason in Ireland.

wilful murder of malice prepensed. By the 43 Geo. 3. 43 Geo. 3. c. 58. E. & I. if any person shall wilfully, maliciously, and unlawfully administer to, or cause to be administered to or taken by any of his majesty's subjects, any deadly poison, or other noxious and destructive substance or thing, with intent thereby to murder, or thereby to cause and procure the miscarriage of any woman then being quick with child; such offender, his counsellors, aiders, and abettors, knowing of and privy to such offence, shall be guilty of felony without benefit of clergy. And by s. 2. if any person shall wilfully and maliciously administer to, or cause to be administered to or taken by any woman, any medicines, drug, or other substance or thing, or shall use or employ, or cause or procure to be used or employed, any instrument or other means with intent thereby to cause or procure the miscarriage of any woman not being, or not being proved to be, quick with child at the time of administering such things, or using such means, such offender, his counsellors, aiders and abettors, knowing of and privy to such offence, shall be guilty of felony, and shall be liable to be fined, imprisoned, and set upon the pillory, publicly or privately whipped, or to suffer one or more of said punishments, or to be transported beyond the seas for any term not exceeding 14 years, at the discretion of the court before which such offender shall be tried and convicted. The evidence in one case of murder is regulated by this statute, (s. 3.) which repeals the 21 Jac. 1. c. 27. Eng. and 6 Ann. c. 4. Ir. and enacts, that the trials in England and Ireland respectively of women charged with the murder of any issue of their bodies, male or female, which being born alive would by law be bastard, shall proceed and be governed by the like rules of evidence and of presumption as are by law used in respect to other trials for murder: Provided (s. 4.) that it shall be lawful for the jury by whose verdict any prisoner charged with such murder shall be acquitted, to find, in case it shall so appear in evidence, that the prisoner was delivered of issue of her body, male or female, which, if born alive, would have been bastard,

Administering poison with intent to murder, or produce miscarriage, a capital felony.

s. 2.

Punishment for administering medicines, &c. with intent to produce miscarriage.

s. 3 & 4.

Trials of women for murder of their bastards how to be.

and that she did, by secret burying, or otherwise, endeavour to conceal the birth thereof, and thereupon it shall be lawful for the court to adjudge that such prisoner shall be committed to the common gaol or house of correction for any time not exceeding 2 years. The

23 Hen. 8. c. 1.
s. 3. Eng.

23 Hen. 8. c. 1. s. 3. Eng. was the first statute which enacted, that no person found guilty of any wilful murder of malice prepensed, or of any abetment, procurement, helping, maintaining, or counselling of or to any such murder, shall be admitted to the benefit of clergy.

1 Edw. 6. c. 12.
s. 10. Eng.

And by the 1 Edw. 6. c. 12. Eng. the benefit of clergy was also taken away from murderers through malice prepensed, if found guilty, or confessing the same upon arraignment, or not answering directly, or standing wil-

4 & 5 Ph. & M.
c. 4. Eng.

fully mute: And by the 4 & 5 Ph. & M. c. 4. Eng. every person maliciously commanding, hiring, or coun-

*Murderers and
their accessaries
deprived of be-
nefit of clergy.*

selling any person to commit wilful murder, being outlawed thereof, or found guilty or otherwise attainted, or who being arraigned shall stand mute, or challenge peremptorily above 20 persons, or will not answer directly to such offence, shall not have the benefit of

s. 2.

Proviso.

clergy. Provided (s. 2.) that every lord of parliament, and peer of the realm, having place and voice in parliament, upon every indictment for any of the offences in s. 1. shall be tried by his peers. The offence of murder, of malice prepensed, was made high treason in Ireland by the 10 Hen. 7. c. 21. Ir. but this statute was

31 Geo. 3. c. 17.
s. 1. Ir.

repealed by the 31 Geo. 3. c. 17. Ir. which enacts (s. 1.) that all persons who shall be found guilty of wilful murder of malice prepensed, or of any abetment, procurement, helping, maintaining, or counselling of or to any such murder, shall be adjudged felons, and be excluded from the benefit of clergy. In order that some further terror, and peculiar mark of infamy, may be added to the punishment of death inflicted on such as are guilty

25 Geo. 2. c. 37.
s. 1. Eng.

of murder; the 25 Geo. 2. c. 37. Eng. enacts, that all persons found guilty of wilful murder, shall be executed

*Execution of
convicts of mur-
der when to be.*

on the day next but one after sentence passed, unless the same shall be Sunday, and in that case on the Monday following. And by s. 2. the body of such murderer

s. 2.

shall,

shall, if such conviction be in the [*county of Middlesex, *Their bodies to be dissected.* or within the city of London, or the liberties thereof,] be immediately conveyed by the sheriff, his deputy, and officers, to the hall of the surgeons company,† or such other place as said company shall appoint, and be delivered to such person as said company shall depute, who shall give to the sheriff, &c. a receipt for the same; and the body shall be dissected and anatomized by said surgeons, or such person as they shall appoint, and in case such conviction, &c. shall be in any other county or place in [†Great Britain,] then the judge shall award the sentence to be put in execution the next day but one after such conviction, (except as before excepted,) and the body of such murderer shall in like manner be delivered by the sheriff, &c. to such ‡surgeon as such judge shall direct. By s. 3. sentence shall be pronounced in open court immediately after the conviction of such murderer, and before the court shall proceed to other business, unless the court shall see reasonable cause for postponing the same; in which sentence shall be expressed not only the usual judgment of death, but also the time appointed for the execution thereof, and the marks of infamy hereby directed for such offenders. *Sentence when and how pronounced.* Provided (s. 4.) that after such sentence pronounced, the judge before whom such criminal shall be tried, may stay the execution of such sentence, regard being had to the true intent of this act. *s. 4. Execution may be stayed.* And by s. 5. such judge may appoint the body of such criminal to be hung in chains: But in no case shall the body of any murderer be suffered to be buried, unless after being dissected, as aforesaid; and such judge shall direct the same to be disposed of as aforesaid, to be anatomized, or to be hung in chains, as is now practised for the most atrocious offences. *s. 5. Body may be hung in chains.* By s. 6. after such conviction and judgment, the gaoler or keeper to whom such criminal shall be delivered for safe custody, shall confine him *s. 6. Prisoner, after sentence, how dealt with by to gaoler.*

* "County of Dublin, or county of the city of Dublin," in 31 Geo. 3. c. 17. Ir.

† "In the city of Dublin" here added in 31 Geo. 3. c. 17. Ir.

‡ "To the surgeon of the infirmary of the county in which such trial shall be, if there be an infirmary of such county, and if not, then to such surgeon as such judge shall direct" in 31 Geo. 3. c. 17. 1r.

to some cell, or other proper place within the prison, separate from the other prisoners; and no person, except the gaoler, &c. or his servants, shall have access to such prisoner, without license under the hand of the judge before whom such offender shall have been tried, or under the hand of the sheriff, or his deputy. Pro-

s. 7.

Proviso.

s. 8.

Convict how fed

Duty of gaoler enforced.

s. 9.

To rescue prisoner from confinement or execution, felony, death.

s. 10.

Rescuing the body from surgeons, &c. felony, transportation.

vided (s. 7.) that if such judge shall see cause to respite the execution, he may relax or release any or all of the said regulations to be observed by the gaoler, &c. by any license in writing signed by such judge, during such stay of execution. By s. 8. after sentence passed as aforesaid, and until the execution thereof, such offender shall be fed with bread and water only, (except in case of receiving the sacrament, or of any violent sickness or wound, in which case some known physician, surgeon, or apothecary, may be admitted by the gaoler, &c. to administer necessaries; the christian and surname of such physician, &c. and his place of abode, being first entered in the books of such prison): And in case such gaoler, &c. shall offend against or neglect to put in execution any of the directions hereby enacted, he shall forfeit his office, and be fined in the sum of £20. and suffer imprisonment until the same be paid. By s. 9. if any person shall by force set at liberty, or rescue or attempt to rescue or set at liberty, any person out of prison, who shall be committed for or found guilty of murder, or rescue or attempt to rescue any person convicted of murder going to execution, or during execution, such offender shall be guilty of felony without benefit of clergy. And by s. 10. if any person shall, after such execution had, by force rescue, or attempt to rescue the body of such offender out of the custody of the sheriff or his officers, (during the conveyance of such body to any of the places hereby directed,) or from the company of surgeons, or their officers or servants, or from the house of any surgeon where the same shall have been deposited in pursuance of this act; he shall be guilty of felony, and liable to be transported for 7 years; and shall be subject to the like punishment, and methods of conviction, in case of returning into or
being

being found at large within [*Great Britain] within said ^{“Ireland” in} 31 Geo. 3.c.31.
7 years, as other felons are in case of returning from Ir.

transportation. [By s. 11. nothing herein shall repeal ^{s. 11.}
or alter so much of the 11 Geo. 1. c. 26. as relates to the ^{Proviso.}
execution of persons convicted of capital offences in
Scotland, for the respective times in said act mentioned.]

The 31 Geo. 3. c. 17. Ir. has followed these several ^{31 Geo. 3.c.17.}
clauses of the 25 Geo. 2. c. 37. Ir. (except the last) with Ir.
such deviations only as are noted in the margin.

IV. By the 36 Geo. 3. c. 27. Ir. all persons who ^{§ 4.}
shall be convicted of conspiring, confederating, and ^{Conspiracy to}
agreeing to murder any person, shall be adjudged ^{murder, a capi-}
felons, and suffer death without benefit of clergy. And ^{tal felony.} 36 Geo. 3.c.27.
this act is amended by the 38 Geo. 3. c. 57. Ir. which ^{Ir.}
further enacts, that any person who shall propose to, ^{38 Geo. 3.c.57.} Ir.
solicit, encourage, persuade, or endeavour to encourage ^{Encouraging,}
or persuade any person to murder any person, shall be ^{&c. another to}
guilty of felony without benefit of clergy. To which ^{commit murder,}
statutes there are none corresponding in England. ^{a capital felony.}

V. The several species of the crime of *petit treason*, ^{§ 5.}
as enumerated in the 25 Edw. 3. st. 5. c. 2. E. & I. ^{Species of petit}
are when a servant slayeth his master, or a wife her ^{treason.} 25 Edw. 3. st. 5.
husband, or when a man secular or religious slayeth his ^{c. 2. E. & I.}
prelate, to whom he oweth faith and obedience. The
benefit of clergy was first taken away from such offenders
by the 12 Hen. 7. c. 7. Eng. which enacts, that if any ^{12 Hen. 7. c. 7.}
lay person prepensedly murder his lord, master, or ^{Eng.}
sovereign immediate, he shall not be admitted to his ^{Petit treason a}
clergy. And by the 23 Hen. 8. c. 1. s. 3. Eng. no ^{capital felony.} 23 Hen. 8. c. 1.
person found guilty of petit treason, or of any abetment, ^{s. 3. Eng.}
procurement, helping, maintaining, or counselling to
such petit treason, shall be admitted to the benefit of
his clergy. And by the 4 & 5 Ph. & M. c. 4. Eng. any ^{4 & 5 Ph. & M.}
person who shall maliciously command, hire, or counsel ^{c. 4. Eng.}
any person to commit any petty treason, shall not have ^{Accessaries de-}
the benefit of his clergy. It has been already stated ^{nied benefit of}
that murder, of malice prepensed, was high treason in ^{clergy.}
Ireland prior to the 31 Geo. 3. c. 17. Ir. which repealed
the 10 Hen. 7. c. 21. Ir. And it is to be observed that
the 25 Geo. 2. c. 27. Eng. and 31 Geo. 3. c. 17. Ir. do
not

not prescribe any distinct mode of punishment for this aggravated species of murder, which is denominated petit treason. The 30 Geo. 3. c. 48. Eng. and 36 Geo. 3. c. 31. Ir. which alter the mode of punishment of women in cases of high and petit treason, will be stated in another place.

CHAP. XII.

Of Offences against the Persons of Individuals.

§ 1. **T**HE first statute which altered the punishment, at common law, for the offence of *mayhem*, is the 5 Hen. 4. c. 5. E. & I. which recites that many offenders do daily beat, wound, imprison, and maim divers of the king's liege people, and after, purposely, cut their tongues, or put out their eyes; and enacts, that offenders that so cut tongues, or put out eyes, and that duly proved and found that such deed was done of malice prepensed, shall incur the pain of felony. And by the 37 Hen. 8. c. 6. Eng. if any person maliciously, willingly, or unlawfully cut, or cause to be cut off, the ear of any subject, otherwise than by authority of law, chance-medley, sudden affray or adventure, he shall not only forfeit treble damages to the party grieved, to be recovered by action of trespass, but shall forfeit to the king £10. as a fine. But the 22 & 23 Car. 2. c. 1. Eng. further enacts, (s. 7.) that if any person on purpose, and of malice forethought, and by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, [*slit] the nose, cut off a nose or lip, or cut off or disable any limb or member of any subject, with intention in so doing to maim or disfigure him in any the manners before-mentioned;

Certain acts of maiming, felonious.
5 Hen. 4. c. 5. E. & I.
37 Hen. 8. c. 6. Eng.
Cutting off an ear how punished.
22 & 23 Car. 2. c. 1. s. 7. Eng.
Malicious maiming by lying in wait, a capital felony.
* "split" in 11 Geo. 2. c. 8. Ir.

before-mentioned ; such offender, his counsellors, aiders, and abettors, knowing of and privy to the offence as aforesaid, shall be declared felons, and suffer death without benefit of clergy. Provided (s. 8.) that no attainer of such felony shall corrupt the blood, or work a forfeiture of dower, or of the lands or goods of the offender. The 11 Geo. 2. c. 8. Ir. has followed the 22 & 23 Car. 2. in the above clauses ; but further enacts (s. 3.) that no person shall carry about with him any skain, durk, stick loaded with lead, or other secret offensive weapon of the like kind ; and it shall be lawful for any person to seize such arms ; and such offender shall be fined a sum not exceeding £5. and suffer such imprisonment as to the judge who shall try the same shall seem reasonable ; not exceeding 12 calendar months. And the 13 & 14 Geo. 3. c. 45. Ir. further enacts, that if any person, on purpose and of malice forethought, and by lying in wait or watching, or waiting for the opportunity, with any knife or other sharp weapon, shall cut or stab any person in the face, or in any limb or member, or in any part of the body, with intent in so doing to murder, rob, or maim, or with an intent to disable or disfigure him, such person so cutting, &c. his counsellors, aiders, and abettors, knowing of and privy to the offence, shall be guilty of felony without benefit of clergy. Provided (s. 2.) that no attainer of such felony shall corrupt the blood, or forfeit the dower of the wife, or the lands, goods, or chattels of the offender. The 43 Geo. 3. c. 58. E. & I. further enacts, that if any person [wilfully, maliciously, and unlawfully shoot at any of his majesty's subjects, or wilfully, maliciously, and unlawfully, present, point, or level any kind of loaded fire-arms at any of his majesty's subjects, and attempt by drawing a trigger, or in any other manner, to discharge the same at or against his person ;] or shall wilfully, maliciously, and unlawfully stab or cut any of his majesty's subjects, with intent in so doing, or by means thereof, to murder, or rob, or to maim, disfigure, or disable such subject, or with intent to do some other grievous bodily harm to such subject, or with intent to obstruct, resist, or prevent

s. 8.

Blood not corrupted, &c.

11 Geo. 2. c. 8. Ir.

s. 3.

Punishment for carrying secret offensive weapons.

13 & 14 Geo. 3. c. 45. Ir.

Maiming by lying in wait with intention to murder, rob, &c. a capital felony.

s. 2.

Blood not corrupted, &c.

43 Geo. 3. c. 58. s. 1. E. & I.

*Maliciously shooting at any person, or attempting it, a capital felony.**Stabbing or cutting with intent to murder, rob, &c. a capital felony.*

Proviso.

vent the lawful apprehension and detainer of the person so stabbing or cutting, or the lawful apprehension, &c. of any of his accomplices, for any offences which he may be liable by law to be apprehended, imprisoned, and detained; such offender, his counsellors, aiders, or abettors, knowing of and privy to such offence, shall be guilty of felony without benefit of clergy: Provided that if it shall appear on the trial of any person indicted for wilfully, &c. *shooting at*, &c. that such acts [**of stabbing or cutting*] were committed under such circumstances as that if death had ensued thereon, the same would not in law amount to the crime of murder, then the person so indicted shall be acquitted. The clause of the 9 Geo. 1. c. 22. Eng. which relates to the offence of wilfully and maliciously shooting at any person, has been already stated *ante* p. 624. And the first branch of the 43 Geo. 3. c. 58. *supra*, is to be referred to the same head. The 15 & 16 Geo. 3. c. 21. s. 3. Ir. *ante* p. 629. 24 Geo. 3. c. 47. s. 11. Eng. *ante* p. 681. 45 Geo. 3. c. 121. U. K. *ante* p. 686. and 46 Geo. 3. c. 106. Ir. *ante* p. 692. are to be here also referred to.

§ 2.

Forcible abduction of women, a felony.

3 Hen. 7. c. 2. E. & I.

II. Next as to the crime of *abduction*: The 3 Hen. 7. c. 2. E. & I. recites, that women, as well maidens, as widows, and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, be oftentimes taken by misdoers, contrary to their will, and after married to such misdoers, or to others by their assent, or defiled; and enacts, that any person taking any woman so against her will, or procuring and abetting to the same, and also receiving wittingly the same woman so taken against her will, and knowing the same, shall be guilty of felony; and such misdoers, takers, and procurators, and receitors, knowing the said offence in form aforesaid, shall be adjudged principal felons. Provided that this act extend not to any person taking any woman, only claiming her as

* This clause seems to be incorrectly printed, as it does not embrace the acts of "shooting at, &c." enumerated in the preceding part of the clause.

as his ward or bond-woman. And the 39 Eliz. c. 9. 39 Eliz. c. 9. s. 1. Eng. Eng. further enacts, that every person who shall be convicted or attainted of any offence made felony by the Benefit of clergy taken away. 3 Hen. 7. c. 2. *supra*, and stand mute, or make no direct answer, or shall challenge peremptorily above 20, shall suffer death without benefit of clergy. Provided (s. 2.) s. 2. that nothing herein shall take away the benefit of clergy Proviso. but only from principals, or procurers or accessaries before the offence committed. The 6 Ann. c. 16. s. 7. 6 Ann. c. 16. s. 7. Ir. Ir. also enacts, that if any maid or woman be taken or carried away by force against her consent, and after be married or defiled by such person who carried her away, Abduction accompanied by marriage or defilement, a capital felony. or by any other person, by his assent or procurement, whether such marriage or defilement be with or without the consent of such maid, &c. every person so marrying or defiling such maid or woman, and the aiders and procurers of such forcible taking away, &c. and all, as well principals as accessaries before such fact, shall be guilty of felony without benefit of clergy. And by s. 8. s. 8. if any person, being principal or accessory before such offence committed, shall be indicted and arraigned for the taking away of any such maid, &c. by force, against her consent, and marrying or defiling her, and upon his trial shall stand mute, or make no direct answer, or challenge peremptorily above 20, he shall suffer death without benefit of clergy. But the 19 Geo. 2. c. 13. 19 Geo. 2. c. 13. s. 2. Ir. s. 2. Ir. recites, that the said provisions of the 6 Ann. c. 16. s. 7. *supra*, are frustrated by the difficulty of proving a marriage or defilement; and therefore enacts, that if Abduction, though unaccompanied with marriage or defilement, a capital felony. any maid or woman be taken or carried away by force, against her consent, with intent to marry or defile such maid, &c. contrary to the said provisions of the 6 Ann. such person so taking or carrying away such maid, &c. with such intent, and the aiders and procurers of such forcible taking and carrying away such maid, &c. and all, as well principals as accessaries before such fact committed, shall be guilty of felony without benefit of clergy.

The 4 & 5 Ph. & M. c. 8. Eng. rather regards the fraudulent than the forcible abduction of women. This Fraudulent abduction of women of fortune under the age of 16 years, how punished. statute

4 & 5 Ph. & M.
c. 8. s. 1, 2 & 3.
Eng.

statute recites, that maidens and women-children, as well such as be heirs apparent to their ancestors, as others having left unto them by their father, or other ancestor and friends, lands, &c. or other great substances in goods and chattels, for their advancement in marriage, be oftentimes, unawares to their friends and kinsfolks, by flattery, trifling gifts, and fair promises of unthrifty and light persons, and by the entreaty of persons of lewd demeanor, and others that for rewards buy and sell the said maidens and children, secretly allured and won to contract matrimony with the said unthrifty and light persons, and thereupon, either with slight or force, oftentimes be taken and conveyed away from their said parents, friends, or kinsfolks; and enacts, (s. 2.) that it shall not be lawful to take or convey away (or cause, &c.) any maid or woman-child unmarried, being under the age of 16 years, out of or from the possession, custody, or government, and against the will, of the father of such maid, &c. or of such person to whom the father by his last will and testament, or by any other act in his life time, shall appoint the order, keeping, education, or governance of such maid, &c.; except such taking and conveying away as shall be done by or for such person or persons as without fraud or covin shall be the master or mistress, or guardian in socage of such maid, &c. And by s. 3. that if any person above the age of 14 years, shall unlawfully take or convey, (or cause, &c.) any maid or woman-child unmarried, being within the age of 16 years, out of or from the possession, and against the will of the father or mother of such child, or out of or from the possession, and against the will of such person as then shall happen to have, by any lawful way or means, the order, keeping, education, or governance of such maiden, &c; such offender shall suffer imprisonment for 2 years, or pay such fine as shall be assessed by the council of the queen [*in the star-chamber.] And by s. 4. if any person shall so take away, (or cause, &c.) and deflower any such maid, &c. or shall against the

s. 4.

* "Court of Castle-chamber" in 10 Car. 1. st 3. c. 17. Ir.

the will or unknowing of or to the father if in life, or against the will, &c. of the mother (having the custody of such child,) if the father be dead, by secret letters, messages, or otherwise, contract matrimony with any such maiden or woman-child; such offender, being lawfully convicted, shall suffer imprisonment for 5 years, [or shall pay such fine as shall be assessed in the *star-chamber, one moiety to the king, the other to the parties grieved.] By s. 5. [the council of the *star chamber], by bill of complaint or information, and justices of assize, by inquisition or indictment, shall hear, &c. said offences, upon which inquisitions such process shall lie as upon an indictment at common law. By s. 6. if any woman-child, or maiden, being above the age of 12 and under 16 years, consent to such person that so shall make any contract of matrimony, the next of kin of the same woman-child or maid, to whom the inheritance should descend or come after the decease of the same woman-child, &c. shall have all such lands, &c. as such woman-child, &c. had in possession, reversion, or remainder, at the time of such consent, during the life of such person that shall so contract matrimony; and after the decease of such person contracting matrimony, the said lands, &c. shall descend and come to such person as they should have done in case this act had not been made, other than to him that shall so contract matrimony. [† By s. 7. this act shall not diminish any custom or authority touching orphans within the city of London, or any other city, &c.] The 10 Car. 1. st. 3. c. 17. Ir. has followed this statute, with such deviation only as is noted in the margin. And the 6 Ann. c. 16. Ir. further enacts, that if any person above the age of 14 years, by fraud, flattery, fair promises, or other indirect means, shall secretly allure, take, and convey away, (or cause, &c.) any maid or woman-child, having substance in lands, tenements, or goods, or being heiress to her ancestor, and within the age of 18 years, out of or from the possession, custody, or governance of the father or mother of such maid, &c.

Punishment for defiling or marrying such women.

**Vide p. 912.*

s. 5.

Offences where inquirable.

s. 6.

If female above 12 years of age, and under 16, consent, &c. her estate to go to next of kin during her life.

s. 7.

Proviso.

10 Car. 1. st. 3. c. 17. Ir.

6 Ann. c. 16. s. 1. Ir.

Punishment for fraudulent abduction of females, under 18 years of age, having estates, &c.

or

† This clause is not in 10 Car. 1. st. 3. c. 17. Ir.

*Estate, &c. of
such child, how
disposed of.*

s. 2.

or out of the custody or power of the guardian of such maid, &c. against the will of the father or mother of such maid, &c. or of such person who shall then have the guardianship of such maid, &c. or of such other person as shall then lawfully have the order, keeping, education, or government of such maid, &c. and shall contract matrimony with such maid, &c. with the consent of such maid, &c.; such person so taking away, or procuring to be taken away, and marrying the said maid, &c. without the consent of the parent or guardian, and if there be no parent or guardian, then of the lord chancellor, and be thereof convicted, shall suffer imprisonment for 3 years, and be adjudged incapable to have, receive, or take any use or benefit of any part of the estate, real or personal, to which such maid, &c. or any person in trust for her, at the time of such marriage, or at any time thereafter, shall be seised of, interested in, or entitled to. And by s. 2. the estate, &c. of such maid, &c. shall, upon the conviction of such person so taking away and marrying such maid, &c. be, from the time of such marriage, vested in such trustees as the lord chancellor shall appoint; subject nevertheless to such payments, charges, and demands, as the same was liable to at the time of such marriage; and upon this further trust, that such trustees, and the survivor of them, shall receive the rents, issues, and profits of said estate, and manage the same to the best advantage during the joint lives of the persons so marrying, and in case such woman survive her said husband, then the said trustees, &c. to pay to said woman out of the rents, &c. of such premises, such proportion thereof, during her natural life, for her maintenance, as the lord chancellor shall appoint; and also such sum of money for the maintenance and education of the children of such woman as shall be appointed as aforesaid; and upon this further trust, that the said estate, and all the profits and produce thereof, other than what shall be disposed of as aforesaid, or in payment of such debts as the same was liable to before such marriage, and other than what shall be necessarily expended in execution of said trust, shall, after the death of such woman,

woman descend, go, and remain to such person as the same would have done if this act had never been made.

And by s. 3. if any person shall, by any subtle means,

s. 3.

or secret insinuations and delusions, threats or menaces,

*Female per-
suading, &c.
son and heir,
&c. to marry
before 21, with-
out consent, &c.
disabled to de-
mand dower, &c.*

persuade or procure the son and heir apparent, or other son of any person having lands, &c. of the yearly value

of £50. or personal estate of the value of £500. or shall in manner aforesaid, persuade the eldest or other son of

any person deceased, to contract matrimony without the privity or consent of his parents or guardians, and such

matrimony be had as aforesaid before such son attain his age of 21 years; such person contracting matrimony

without the privity and consent of such parent or guardian, and in case there be no parent or guardian, then

of the lord chancellor, shall be incapable and disabled to sue for, recover, or demand any dower, thirds, or

other part of the real or personal estate of such son, or any jointure or other provision out of the real or personal

estate of such son, made to or in trust for her by any will, deed, or settlement. By s. 4. all persons who shall

s. 4.

be accessaries, aiders, abettors, or procurers, before the fact, in the several offences before mentioned, shall suffer 3 years imprisonment. And by s. 5. if any person

*Accessaries how
punished.*

s. 5.

shall take upon him to celebrate any marriage of any such person without such consent as aforesaid, and be

*Clergyman ce-
lebrating such
marriages, how
punished.*

thereof lawfully convicted, such person, being a benefited clergyman, shall be immediately after such con-

viction, *ipso facto*, deprived of all his livings and ecclesiastical preferments; nevertheless no lapse shall incur

until 6 months after notice given to the respective persons of such conviction; and such clergyman shall, from

such conviction, be incapable of any spiritual preferment or promotion, or of receiving any benefit thereby; and

every offender so convicted shall be transported as persons exercising foreign jurisdiction, and popish regulars,

are appointed to be transported: and if such person shall return into this kingdom, he shall suffer as persons

exercising foreign jurisdiction, and popish regulars transported, and after returning into this kingdom, are sub-

ject unto. And by s. 6. if any popish priest shall cele-

s. 6.

brate

Popish priest celebrating such marriages, how punished.

9 Geo. 2. c. 11. s. 4. Ir.

Penalty for marrying persons under the age of 21 entitled to certain fortunes.

s. 5.

Limitation for prosecutions.

§ 3.

Punishment for ravishing a child under age.

3 Edw. 1. c. 13. l. 1. & l.

brate the marriage of any persons contrary to this act, he shall be adjudged a popish regular, and suffer all the pains, penalties, and forfeitures of a popish regular. The 9 Geo. 2. c. 11. Ir. which has been already in part stated (vol. 1. p. 404-5.) further enacts, that if any person of the full age of 21 years shall marry, or contract to marry, any person under the said age, without consent of the father (if living) in writing under his hand, or (if dead) of the guardian had in the same manner, or of the lord chancellor in case no guardian be appointed, such person so marrying or contracting to marry, shall forfeit £500. in case the person so married or contracted to be married, when under the age of 21 years, shall be possessed of or entitled unto real or personal estate of the value of £10,000.; but if the estate be not of such value, then the person (being of full age) so marrying, &c. a person under said age, shall forfeit only £200.; which sums shall be recovered by bill, plaint, or information, in any court of record; and one moiety of said forfeitures shall be to the king, and the other to him who shall sue for the same; and if any person being of full age, shall be legally convicted in any such suit of marrying or contracting to marry a person under said age of 21 years, he shall be imprisoned in the common gaol of the county or place where such offence is committed, for one year. Provided (s. 5.) that no such forfeiture or penalty shall be incurred, unless the prosecution be commenced within a year after the fact.

III. With respect to the crime of *rape*: The 3 Edw. 1.

c. 13. E. & I. (which is not wholly superseded in England by the subsequent statutes) provides, that none shall

ravish or take away by force any maiden within age, neither by her own consent, nor without, nor any wife or maiden of full age, nor other woman against her will; and if any do, at his suit that will sue within 40 days, the king shall do common right, and if none commence his suit within 40 days, the king shall sue; and such as be found guilty, shall have 2 years imprisonment, and after shall fine at the king's pleasure; and if they have not whereof, they shall be punished by longer imprisonment, according as the trespass requir-
eth

eth. But by the 13 Edw. 1. st. 1. c. 34. E. & I. if a man do ravish a woman married, maid, or other, where she did not consent either before or after, he shall have judgment of life and of member. And likewise where a man ravisheth a woman married, lady, damsel, or other, with force, although she consent after, he shall have such judgment as before is said, if he be attainted at the king's suit, and there the king shall have the suit. And the 18 Eliz. c. 7. Eng. further enacts, that if any person commit any manner of felonious rape or ravishment, and be found guilty by verdict, or be outlawed, or upon arraignment shall confess the same, he shall suffer death, and forfeit as in cases of felony without benefit of clergy. And for plain declaration of law, this statute enacts (s. 4.) that if any person shall unlawfully and carnally know and abuse any woman-child under the age of 10 years, he shall be guilty of felony without benefit of clergy. The 11. 12 & 13 Jac. 1. c. 3. Ir. also enacts, that if any person shall commit any felonious rape or ravishment of any maid, wife, widow or damsel; and being indicted or appealed of such felony, and found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, according to law, or shall wilfully or of malice stand mute, or shall peremptorily challenge above 20 jurors, or shall be outlawed upon such indictment, he shall suffer death without benefit of clergy. And the 9 Ann. c. 6. Ir. further enacts (s. 2.) that if any person shall unlawfully have carnal knowledge of any female child under the age of 12 years,* though with her consent, he shall suffer as a felon, without benefit of clergy. It is a provision of the 23 Geo. 2. c. 11. Ir. that if any school-master of any charter or charity school, shall have carnal knowledge of any female child above the age of 12 years under his care, or if any school-master or school-mistress shall consent or be privy to any other person so doing, he or she being convicted thereof at the assizes, shall be 3 times publicly whipped, upon 3 several market days,

13 Edw. 1. st. 1.
c. 34. E. & I.

*Rape made
felony.*

18 Eliz. c. 7.
Eng.

*Benefit of clergy
taken away.*

s. 4.

*Rape on child
under 10 years,
a capital felony.*

11 12 & 13 Jac. 1.
c. 3. Ir.

*Rape a capital
felony.*

9 Ann. c. 6.
s. 2. Ir.

*Carnal know-
ledge of a child
under 12 years,
a capital felony.*

23 Geo. 2. c. 11.
s. 9. Ir.

*School masters,
&c. having car-
nal knowledge of
children under
their care, how
punished.*

VOL. II.

3 O

at

* The 3 Edw. 1. c. 13. *supra*, is therefore altogether superseded in Ireland.

at noon, in the county-town where such person shall be convicted.

§ 5. V. The 25 Hen. 8. c. 6. Eng. (revived by the 5 Eliz. c. 17. Eng.) enacts, that the detestable and abominable vice of *buggery*, committed with mankind or beast, shall be adjudged felony, and such order and form of process be therein used, as in cases of felony at common law; and the offenders being hereof convict by verdict, confession, or outlawry, shall suffer death, and loss of lands, &c. goods, &c. without benefit of clergy: And the justices of peace shall have power to hear, &c. the same, as in cases of other felonies. The 10 Car. 1. st. 2. c. 20. Ir. is the corresponding statute in Ireland.

§ 6. VI. Several statutes relating to the head of *assault* and *battery*, have been already stated in the preceding pages* of this volume: and others also will be found under the titles "larceny" and "malicious mischief" in a subsequent chapter. It is a provision of the 5 Eliz. c. 4. Eng. which may be here stated, that if any servant, workman, or labourer, shall wilfully or maliciously make an assault upon his master or mistress, or upon any other having charge or oversight of such servant, &c. or of the work wherein he is hired to work, and shall thereof be convicted before any 2 justices, or the mayor or other head officer of the city or town corporate where the said offence is committed, by confession, or oath of 2 witnesses, he shall suffer imprisonment for a year or less, by the discretion of 2 justices out of a town corporate, and, if within a town corporate, of the mayor or other head officer, with 2 others of the discreetest persons of said corporation; and if the offence shall require further punishment, then to receive such other open punishment, so as it extend not to life or limb, as the justices in sessions, or the mayor or other head officer, and 6 or 4 at least of the discreetest persons of the corporation, shall think convenient for the quality of the offence.

§ 7. VII. The 43 Eliz. c. 13 Eng. which was passed to restrain the offence of *false imprisonment*, amongst others, then

* Vide p. 93. 466. 577. 659. 660. 679-3-8. 681-6. 691-4.

then of late years committed by robbers and spoil-takers upon the borders of Scotland, relates only to the counties of Cumberland, Northumberland, Westmorland, and the bishoprick of Durham, and is therefore omitted. The 7 Ann. c. 12. Eng. which may be also referred to the head of false imprisonment has been already stated in the chapter which treats of offences against the law of nations, *ante* p. 464. And the clauses of the *habeas corpus* act (31 Car. 2. c. 2. s. 12. Eng. *ante* vol. 1. chap. 1.) which respect imprisonment beyond the seas, and the clause of the 11 & 12 W. 3. c. 7. Eng. *ante* p. 467. which restrains the masters of merchant ships from forcing men on shore, or leaving them behind, are to be here also referred to, though these clauses of the 31 Car. 2. and 11 & 12 W. 3. may be also considered as referable to the head of *kidnapping*.

CHAP. XIII.

Of Offences against the Habitations of Individuals.

THE 9 Geo. 1 c. 22. Eng. (*ante* p. 624.) contains a clause relating to the crime of *arson*, which is to be here referred to. And the 4 & 5 Ph. & M. c. 4. Eng. had previously enacted, that any person who shall maliciously command, hire, or counsel any person wilfully to burn any dwelling-house, or any part thereof, or any barn then having corn or grain in the same, and being outlawed thereof, or arraigned and found guilty, or otherwise lawfully attainted or convicted of the same offence, or being arraigned do stand mute, or do challenge peremptorily above 20 persons, or will not answer directly to

§ 1.

Arson a capital felony.

9 Geo. 1. c. 22. s. 1. Eng.

4 & 5 Ph. & M. c. 4. Eng.

Accessaries guilty capitally.

48 Geo. 3. c. 58.
E. & I.

*What shall be
arson.*

6 Ann. c. 31.
s. 3. Eng.

*Servants setting
fire to houses
through negli-
gence, how pun-
ished.*

† "Occasion
the burning of"
in 2 Geo. 1. c. 5.
Ir.

2 Geo. 1. c. 5.
s. 4. Ir.

such offence, shall not have the benefit of clergy. And the 43 Geo. 3. c. 58. E. & I. further enacts, that if any person shall wilfully, maliciously, and unlawfully, set fire to any house, barn, granary, hop-oast, malt-house, stable, coach-house, out-house, mill, ware-house, or shop, whether such house, &c. shall then be in the possession of the person so setting fire to the same, or in the possession of any other person, or of any body corporate, with intent to injure or defraud his majesty, or any of his majesty's subjects, or any body corporate,* such offender, his counsellors, aiders, and abettors, knowing of and privy to such offence, shall be guilty of felony without benefit of clergy. I shall follow Sir W. Blackstone in reserving for the head of "malicious mischief" in a subsequent chapter, several statutes which also relate to the crime of arson. But the following clause of the 6 Ann. c. 31. Eng. may be here stated.

This statute enacts (s. 3.) that if any menial or other servant, through negligence or carelessness, shall fire, or [†cause to be fired] any dwelling-house, or out-house, such servant, being convicted by the oath of a witness, before 2 justices of peace, shall forfeit [†£100. unto the church-wardens of the parish where such fire shall happen, to be distributed amongst the sufferers by such fire, in such proportions as to the church-wardens shall seem just;] and in case of default or refusal to pay the same immediately after such conviction, the same being lawfully demanded by said church-wardens, such servant shall, by warrant of 2 justices of peace, be committed to some work-house or house of correction, as the said justices shall think fit, for 18 months, there to be kept to hard labour. The 2 Geo. 1. c. 5. Ir. has followed this

* Burning buildings with intent to prejudice persons who have become insurers of or upon the same, is one of the mischiefs which this act (as appears from its preamble,) was intended to remedy.

† £50. unto the church-wardens of the parish where such fire shall happen, to be distributed by the grand jury at the next quarter sessions of the peace for the county where such fire shall happen, amongst the sufferers by such fire, as such grand jury shall think fit." in 2 Geo. 1. c. 5. Ir.

this clause of the 6 Ann. with such deviation as is noted in the margin.

II. With respect to *burglary*, and its punishment, the §. 2.
 18 Eliz. c. 7. Eng. enacts (s. 1.) that every person being *Burglary a capital felony.*
 found guilty, outlawed, or confessing any burglary, (or *18 Eliz. c. 7. s. 1. Eng.*
 by the 3 W. & M. c. 9. s. 2. standing mute, or not answer-
 ing directly, or challenging peremptorily above 20 jurors,) *3 W. & M. c. 9. s. 1 & 2. Eng.*
 shall suffer death, without benefit of clergy. And by the 3
 W. & M. c. 9. s. 1. Eng. every person who shall counsel, hire, *Accessaries, &c. guilty capitally:*
 or command any person to commit any burglary, being
 thereof convicted or attainted, or being indicted thereof,
 shall stand mute, or will not directly answer to the in-
 dictment, or shall peremptorily challenge above 12 of
 the jury, shall not have the benefit of his clergy. And
 the 5 Ann. c. 31. s. 5. Eng. (*ante* p. 588.) makes it a fe- *5 Ann. c. 31. s. 5. Eng.*
 lony to receive, harbour, or conceal burglars. To re- *Felony to harbour burglars.*
 move certain doubts with respect to the manner of com- *12 Ann. st. 1. c. 7. s. 3. Eng.*
 mitting burglary, the 12 Ann. st. 1. c. 7. s. 3. Eng. de-
 clares and enacts, that if any person shall enter into the
 mansion or dwelling-house of another, by day or by *Breaking out of houses when burglary.*
 night, without breaking the same, with an intent to
 commit any felony, or being in such house shall commit
 any felony, and shall, in the night time, break the said
 house to get out of the same, such person shall be guilty
 of burglary, and be ousted of the benefit of clergy, as
 if such person had broke and entered the said house in
 the night-time with an intent to commit felony. The
 11. 12 & 13 Jac. 1. c. 3. Ir. enacts, that if any person *11. 12 & 13 Jac. 1. c. 3. Ir.*
 shall commit any felonious burglary, and being indicted
 or appealed thereof, and thereupon found guilty by ver-
 dict, or shall confess the same upon his arraignment, or *Principals in burglary, guilty capitally.*
 will not answer directly, or shall wilfully or of malice
 stand mute, or shall peremptorily challenge above 20
 jurors, or shall be outlawed upon the same indictment,
 he shall suffer death without benefit of clergy. And the
 9 W. 3. c. 7. Ir. contains a clause corresponding to the *9 W. 3. c. 7. Ir.*
 3 W. & M. c. 9. s. 1. Eng. *supra*. And the 8 Ann.
 c. 8. Ir. as already observed (*ante* p. 595.) contains a *And accessaries also.*
 clause corresponding to the 5 Ann. c. 31. s. 5. Eng. *8 Ann. c. 8. Ir.*
 But no Irish statute contains any provisions correspond-
 ing to the 12 Ann. st. 1. c. 7. *supra*.

Nearly

*House-breaking
when a capital
felony.*

1 Edw. 6. c. 12.
s. 10. Eng.

15 & 16 Geo. 3.
c. 21. s. 4 & 5. Ir.

*House-breaking
&c. how punish-
ed in Ireland.*

Nearly allied to the crime of burglary, is that of house-breaking; in respect to which the 1 Edw. 6. c. 12. Eng. enacts, that every person attainted or convicted of breaking any house by day or by night, any person being then in the same house, and thereby put in fear or dread, or being indicted or appealed of such offence, and thereupon found guilty by verdict, or who shall upon arraignment confess the same, or will not answer directly, or stand wilfully or of malice mute, shall not be admitted to the benefit of clergy. There is no statute in Ireland containing any clause similar to this of the 1 Edw. 6. *supra*. But the 15 & 16 Geo. 3. c. 21. Ir. contains clauses relative to house-breaking, which have been already stated, *ante* p. 629-630.

CHAP. XIV.

Of Offences against Private Property.

§ 1.

Servants embezzling the goods of their masters after their death how proceeded against.

33 Hen. 6. c. 1.
E. & I.

I. **A**S to the crime of *larceny* considered with relation to the persons by whom it may be committed; the 33 Hen. 6. c. 1. E. & I. after reciting that divers servants, shortly after their masters' death, violently and riotously have taken and spoiled the goods which were of their said masters at the time of their death, and the same distributed amongst them; enacts, that after full information made to the chancellor by the executors (or 2 of them) of such person, of such riot, taking, and spoliation, it shall be lawful for the chancellor, by the advice of the chief justices of K. B. and C. B. and chief baron of Exc. (or 2 of them) to make out writs to such sheriffs as seem necessary, to make open proclamation in such cities or places, (2 market days within 12 days after the delivery of such writs) as to the chancellor, by the advice aforesaid, shall seem reasonable, that the said offenders

fenders shall appear before the king in his bench, at such a day as by the said writ shall be limited, so that the said last proclamation be made by 15 days before the day of appearance; and if any such writ be returned at the day contained in the writ, and the writ be executed, and proclamation thereupon made as aforesaid, *When such offences shall be deemed felony.* then if such person who ought to appear by reason of said proclamation, make default at the day specified in said writ, and do not appear, he shall be attainted of felony. And by s. 2. if such person appear at the day, *s. 2.* then the justices of K. B. shall have power to commit him to prison, until such offender in the said bench do answer to the executors in their actions for such riot and spoliation, and until such actions be determined; *Power of justices of K. B. as to such offenders.* so that the said actions be pursued with effect, and without delay. And by s. 3. if such person be enlarged out of prison, he shall find sufficient persons to be bound by recognizance in the said bench, to keep such days as he *s. 3.* or they shall have by the same court; and if the keepers of the prison whereunto any such person be committed, shall let him go at large without the order of the justices, such keeper shall forfeit £400. to the said executors; and no protection shall be allowed in any action to be brought upon the ordinance. And the 21 Hen. 8. c. 7. *21 Hen. 8. c. 7.* Eng. further enacts, that all servants, to whom caskets, *s. 1. Eng.* jewels, money, goods or chattels, by their masters or *Servants embezzling their masters goods, in their care, to the value of 40s. guilty of felony.* mistresses shall be delivered to keep, if they withdraw them from their said masters, &c. and go away with them, or any part thereof, to the intent to steal the same, and defraud their masters, &c. thereof, contrary to the trust and confidence in them put by their masters, &c. or being in the service of their said masters, &c. without their assent or command, embezzle said caskets, &c. or any part thereof, or convert the same to their own use, with like purpose to steal it; shall, if such caskets, &c. be of the value of 40s. be guilty of felony, (which this statute recites to have been doubted) and punished as other felons are for felonies committed by the course of the common law. But by s. 2. this act shall *s. 2.* not extend to any apprentice, nor to any person within the

Proviso as to apprentices, and persons within the age of 18 years.

33 Hen. 8. c. 5. Ir.

2 Geo. 1. c. 17. s. 19. Ir.

Benefit of clergy taken away from servants embezzling.

Clerks, &c. embezzling money, bills, notes, &c. to be transported

39 Geo. 3. c. 85. Eng.

29 Geo. 2. c. 16. s. 3. Ir.

Clerks of bankers &c. embezzling money to the value of £50. guilty capitally.

the age of 18 years, going away with his masters or mistresses goods or jewels, or converting the same to his own use, during the time of his apprenticeship, or being within said age of 18, but such person shall be in like case as before the making of this act. The 23 Hen 8. c. 5. Ir. is the corresponding statute in Ireland And the 2 Geo. 1. c. 17. Ir. recites the 33 Hen. 8. c. 5. Ir. and further enacts (s. 19.) that if any person be found guilty of any of the offences in said statute, or shall stand mute, or challenge peremptorily above 20, he shall suffer death without benefit of clergy.

With respect to persons acting rather in the capacity of clerks, the 39 Geo. 3. c. 85. Eng. declares and enacts, that if any servant or clerk, or any person employed for the purpose in the capacity of a servant or clerk to any person or body corporate, shall, by virtue of such employment, receive or take into his possession any money, goods, bond, bill, note, banker's draft, or other valuable security or effects, for or in the name or on the account of his master or employer, and shall fraudulently embezzle, secrete, or make away with the same, or any part thereof, such offender shall be deemed to have feloniously stolen the same from his master, &c. for whose use, or in whose name, or on whose account the same was delivered to, or taken into the possession of such servant, &c. although such money, &c. was no otherwise received into the possession [*of such master or employer, than by the actual possession] of his servant, &c.; and such offender, his adviser, procurer, aider, or abettor, shall be liable to be transported to such parts beyond the seas, as his majesty by the advice of his privy council shall appoint, for any term not exceeding 14 years, which the court shall adjudge. Analogous to the 39 Geo. 3. c. 85. Eng. *supra*, is the 29 Geo. 2. c. 16. Ir. which enacts, that if any cashier or clerk of any banker, merchant, or officer entrusted with the receipt or custody of public money, shall, without the consent

* These words omitted in the act. *Vide* 2 East P. C. p. 575.

sent of such banker, &c. embezzle or take away money, cash, notes, or securities for money, to the value of £50. belonging to such banker, &c.; with intent to defraud such banker, &c. such cashier or clerk shall be guilty of felony without benefit of clergy: And every person who shall receive such money, &c. from such cashier, &c. knowing them to be so taken, &c. shall be likewise guilty of felony without benefit of clergy. It is

one of the provisions of the 15 Geo. 2. c. 13. Eng. that if any officer or servant of the bank of England, being

15 Geo. 2.c.13.
s. 12. Eng.

entrusted with any note, bill, dividend-warrant, bond, deed, or security, money, or other effects belonging to said company, or having any bill, &c. of any other person lodged or deposited with said company, or with

*Clerks of the
bank of England
embezzling
notes, &c. guilty
capitally.*

him as an officer or servant of said company, shall secrete, embezzle, or run away with such note, &c. or any part of them, he shall be guilty of felony without benefit of clergy. The 35 Geo. 3. c. 66. Eng. and 37 Geo. 3.

35 Geo. 3.c.66.
s. 6. Eng.

c. 46. Eng. (which are acts for making certain annuities created by the parliament of Ireland transferrable, and

37 Geo. 3.c.46.
s. 6. Eng.

the dividends payable at the bank of England) contain similar provisions with respect to officers or servants of the bank entrusted with notes, &c. in pursuance of these

acts. And the 24 Geo. 2. c. 11. Eng. provides in like manner in respect to the South Sea annuities, and the officers and servants of the South Sea company. And

24 Geo. 2.c.11.
s. 3. Eng.

the 21 & 22 Geo. 3. c. 16. Ir. contains a clause in respect to the officers and servants of the bank of Ireland, precisely similar to that of the 15 Geo. 2. c. 13. Eng.

21 & 22 Geo.3.
c. 16. s. 16. Ir.

supra.

By the 7 Geo. 3. c. 50. Eng. (as amended by the 42 Geo. 3. c. 81. s. 11. G. B.) if any deputy, clerk, agent, letter-carrier, post-boy or rider, or other officer or person employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post-

*Embezzlement
of letters, or se-
curities, or any
part thereof, by
officers of the
post office, a ca-
pital felony.*

7 Geo. 3. c. 50.
Eng.

office, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, which he may be entrusted with, or which shall have come to his hands or possession, containing any bank-note, bank-post bill, bill of exchange, exchequer bill, South Sea or East

India

India bond, dividend warrant of the bank, South Sea, East India, or other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seaman's ticket, state lottery ticket or certificate, bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, American provincial bill of credit, gold-smith's or banker's letter of credit, or note for or relating to the payment of money, or other bond or warrant, draft, bill, or promissory note for the payment of money, [*or containing any part of any such security or instrument;] or shall steal or take out of any letter or packet that shall come to his hands or possession any such note, &c. [*or any part of any such security or instrument;] every such offender shall be guilty of felony without benefit of clergy. And by the 42 Geo. 3. c. 81. s. 2. G. B. if any person, whether employed in any business relating to the post-office, or not, shall counsel, command, hire, persuade, procure, aid, or abet, any such deputy, &c. to commit any of the offences aforesaid; or shall, with a fraudulent intention, buy or receive the whole or any part of any such security or instrument, which at the time of buying or receiving thereof he shall know to have been contained in such letter, &c. so by any deputy, &c. secreted or embezzled, or stolen or taken out of any letter or packet, that shall come to his hand or possession, or which he at the time of buying or receiving thereof, shall know to have been contained in, and stolen, or unlawfully taken out of any letter or packet stolen and taken by any person from out of any mail or bag of letters sent by the post, or from out of any post-office, or house or place for the receipt or delivery of letters or packets sent by the post; such offender shall be guilty of felony without benefit of clergy, and may be tried, convicted, and attainted, as well before as after the trial or conviction of the principal felon, and whether the principal felon shall have been apprehended, or shall be amenable to justice or not. The 5 Geo. 3. c. 25.

*By 42 Geo. 3.
c. 81. s. 1. G. B.

42 Geo. 3. c. 81.
s. 2. G. B.

Accessaries punishable as principals.

5 Geo. 3. c. 25.
s. 19. Eng.

c. 25. Eng. enacts (s. 19.) that if any deputy, clerk, Clerks, &c. secreting postage guilty of felony. agent, letter-carrier, or other servant appointed, authorized, and entrusted to take in letters or packets, and receive the postage thereof, shall embezzle or apply to his own use, any money by him received with such letters, &c. for the postage thereof; or shall burn or otherwise destroy any letter, &c. so taken in or received, or who by virtue of his office shall advance the rates upon letters or packets sent by the post, and shall not duly account for the money by him received for such advanced postage, he shall be guilty of felony. And the 7 Geo. 3. c. 50. Eng. also enacts (s. 3.) that if any 7 Geo. 3. c. 50. s. 3. Eng. deputy, clerk, agent, letter-carrier, officer, or other person employed in any business relating to the post-office, shall take or receive into his hands or possession, Clerks, &c. burning letters, &c. or receiving advanced rates of postage, and secreting it, guilty of felony. any letter or packet to be forwarded by the post, and receive any money therewith for the postage thereof, or shall burn or otherwise destroy any letters, &c. by him so taken in, &c; or if any such deputy, &c. shall advance the rate of postage upon any letter or packet sent by the post, and shall secrete and not duly account for the money by him received for such advanced postage, such offender shall be guilty of felony. And the 23 & 24 Geo. 3. c. 17. s. 39. Ir. also enacts, that if any 23 & 24 Geo. 3. c. 17. s. 39. Ir. deputy, clerk, agent, letter-carrier, post-boy, rider, or other officer employed in any business relating to the post-office, shall embezzle or apply to his use, any Similar provision. money by him received with any letter or packet to be forwarded by the post; or shall burn or destroy any letter, &c. so received by him, to be forwarded by post; or if any such deputy, &c. shall advance the rate of postage upon any letter or packet sent by the post, and shall secrete and not duly account for the money by him received for such advanced postage, he shall be guilty of felony, and suffer death as a felon. And the 38 Geo. 3. 38 Geo. 3. c. 47. s. 3. Ir. c. 47. Ir. (which amends the 23 & 24 Geo. 3. c. 17. 28 Geo. 3. c. 13. and 36 Geo. 3. c. 7.) also enacts, (s. 3.) that if Embezzlement of letters, &c. and securities by officers of post-office in Ireland a capital felony. any officer or other person, in any wise acting by virtue of this act, or any other act passed or to be passed in this kingdom relative to the post-office, or any deputy, clerk, agent, letter-carrier, post-boy or rider, or other officer

officer or person employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post-office, shall wilfully secrete, embezzle, or destroy, or wilfully permit or suffer any person to secrete, &c. or if any person shall without the consent of such clerk, &c. wilfully secrete, &c. any letter, packet, bag, or mail of letters, which shall have been sent by the post, or with which any such deputy, &c. shall be entrusted, or which shall have come to his hands or possession, or which shall contain any bank-note, bank-post-bill, bill of exchange, treasury or exchequer bill, debenture, or acquittance, South Sea, East India, or city of Dublin, bond, dividend warrant of the bank of Ireland or England, South Sea, East India, or other company, society, or corporation; navy, or victualling, or transport bill, ordnance debenture, seamen's ticket; Irish or British state-lottery ticket, or share of any such ticket; bank, treasury, or other receipt for payment of any public loan; note of assignment of stock in the Irish or British funds; letter of attorney for receiving annuities or dividends, or for selling stock in the funds of Ireland or Great Britain, or belonging to any company, society, or corporation; goldsmith or banker's letter of credit, or note for or relating to the payment of money; or bond or warrant of attorney, draft, bill, or promissory note, or other security or paper, voucher or thing, for the payment of money, or whereby or whereon any money may be had, received, or recovered, which shall contain any part of said several vouchers, securities, &c. or any of them; or shall steal or feloniously take out of any letter or packet that shall come to his hands or possession, or which shall have been sent by the post, any of the vouchers, securities, &c. above mentioned, or any part of any other security, paper, matter or thing for the payment of money, whether money can be had, &c. thereby or thereon, or not; or if any person shall be aiding or assisting in the committing of any of same offences; or if any person shall receive any such letter, packet, bag, or mail of letters, so secreted or embezzled

*Accessaries also
guilty capitally.*

zled, or any of the vouchers, securities, &c. aforesaid, contained in such letters, &c. or any part of them, or of any of them, knowing the same to have been wilfully secreted or embezzled as aforesaid; or if any person shall receive any of the vouchers, securities, &c. or any part of them, or any thing which shall have been feloniously taken out of any letter, packet, &c. knowing the same to have been stolen or feloniously taken as aforesaid; every such offender shall be guilty of felony without benefit of clergy. And by s. 4. every person so

s. 4.

receiving any such letter, packet, bag, or mail of letters, so wilfully and feloniously secreted and embezzled as aforesaid, or any thing therein contained, or which shall have been feloniously taken thereout, knowing the same to have been secreted, &c. shall be deemed a principal felon, and triable for such offence, and shall suffer death without benefit of clergy, although the person who shall have actually secreted such letter, &c. or who shall have feloniously taken any thing thereout, shall not have been previously convicted, tried, or apprehended. By

Accessaries shall be tried, &c. as principals.

s. 5. on every trial for any offence against this act, or the 23 & 24 Geo. 3. c. 17. 28 Geo. 3. c. 13. or 36 Geo. 3.

s. 5.

c. 7. where evidence of any bank-note, bank-post-bill, promissory note, bill of exchange, or other voucher or security herein-before-mentioned, or any part of them,

In prosecutions for embezzlements of bank-notes, &c. what shall be evidence of such notes.

or of any of them, or any other security, paper, or thing, or any part of them, or of any of them, for the payment of money, or whereby or whereon any money may be had, received, or recovered, shall be necessary; it shall not be necessary to produce the person by whom such bank-note, &c. shall have been signed, but it shall be sufficient to give such other legal evidence of the making and execution of such bank-note, &c. as the nature of the case will admit of, either by the similitude of the hand-writing of the person subscribing such bank-note, &c. or by such other means as should be legal evidence in civil actions, for the mere proving of the making and execution of such bank-note, &c. And by the 28 Geo. 3. c. 13. s. 1. Ir. on any prosecution or trial to be had for any offence against the 23 & 24

28 Geo. 3. c. 13. s. 1. Ir.

Geo. 3.

In prosecutions of officers of the post-office not necessary to prove that they duly became such.

s. 2.

The establishment of the post office, &c. not necessary to be proved.

Geo. 3. c. 17. Ir. or against this or any other act relating to the post-office, it shall not be necessary for any person prosecuting on behalf of the king, to prove that the oath required by the 23 & 24 Geo. 3. c. 17. Ir. to be taken by the officers of the post-office was taken, but it shall be presumed in every such prosecution, &c. that such officers respectively were appointed to their several employments, and took the said oath, and performed all the requisites appointed by the 23 & 24 Geo. 3. c. 17. and this and every other act relating to the post-office, upon proof being first made that the person charged with any offence against the said acts, or any of them, acted in the station, employment, or business, relating to the post-office, which shall be charged or set forth in the indictment. And by s. 2. in every criminal prosecution and trial for any offence against any act relating to the post-office, the establishment of the post-office shall not be questioned, but it shall be taken as proved that one general letter-office and post-office has been, and at the time of the offence committed, was duly established for the purposes in said act mentioned, and that a sufficient person has been duly appointed, by letters patent under the great seal, post-master general, and that a secretary, treasurer, receiver-general, and accountant-general, and a resident surveyor of the general post-office, and also a controller of the sorting office, have been, respectively, duly appointed by letters patent, &c. and that all subordinate officers, deputies, servants, and agents, required by the 23 & 24 Geo. 3. c. 17. have been duly appointed, and that regular posts and inferior post-offices have been established for the purposes in this act, and that it shall not be necessary in any such prosecution, &c. to prove the letters patent of the said master, or of any the other officers aforesaid, or any deputation or appointment made by the master of said office to any of the subordinate officers, &c.

Statutes restraining petty embezzlements in various branches of trade and manufacture.

The various statutes relating to the particular branches of trade and manufacture, contain provisions for restraining petty embezzlements by the workmen or persons employed therein: Thus the 13 & 14 Car. 2. c. 15. Eng. 20 Car. 2. c. 6. Eng. 8 & 9 W. 3. c. 36.

Eng.

Eng. respect the silk manufacture. The 7 Jac. 1. c. 7. Eng. and 14 Geo. 3. c. 25. Eng. relate to embezzlements by clothiers or workmen in the woollen manufacture. The 1 Ann. st. 2. c. 18. Eng. and 13 Geo. 2. c. 8. Eng. respect as well the woollen manufacture, as the linen, fustian, cotton, or iron manufactures. The 13 Geo. 2. c. 8. Eng. also respects the leathern manufacture. The 22 Geo. 2. c. 27. Eng. and 17 Geo. 3. c. 56. Eng. extend to the woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax, mohair, and silk manufactures; and extends also to the manufacture of hats. And the 27 Geo. 2. c. 7. Eng. provides against embezzlements by the workmen employed in the manufactures of clocks and watches. And in Ireland petty embezzlements of yarn and wool by spinners and other persons employed by combers or yarn-makers, are restrained by the 7 Geo. 2. c. 9. Ir. And the 31 Geo. 2. c. 10. Ir. provides against embezzlements by persons employed in the manufacture of hats, and in the fustian, cotton, iron, fur, woollen, mohair, and silk manufactures of this kingdom. The 3 Geo. 3. c. 34. Ir. contains a clause respecting embezzlements by persons entrusted with linen or hempen yarn cloth. And the 1 Geo. 2. c. 24. Ir. relates to petty embezzlements by the servants of tradesmen, artificers, husbandmen, and dealers in iron works, mines, and other works.

With respect to embezzlements by lodgers, the 3 W. & M. c. 9. Eng. enacts, that if any person shall take away, with an intent to steal, embezzle, or purloin any chattel, bedding, or furniture, which by contract or agreement he is to use, or which shall be let to him to use, in or with such lodging, such taking, embezzling, or purloining, shall be adjudged to be larceny and felony. The 9 W. 3. c. 7. Ir. contains a clause precisely similar.

Felony in lodgers to embezzle furniture.

3 W. & M. c. 9. s. 5. Eng.

9 W. 3. c. 7. s. 5. Ir.

Next as to larceny considered with relation to the things of which it may be committed, and first as to things adhering to the freehold: By the 43 Eliz. c. 7. Eng. every person who shall [cut or unlawfully take away any corn or grain growing, or rob any orchard or garden, or] break or cut any hedge, pales, rails, or fence, or dig, pull up, or take up any fruit tree in any orchard, garden,

Punishment for taking away corn growing, robbing orchards, &c.

43 Eliz. c. 7. s. 1. Eng.

garden

* "Or shall bark any tree growing." added in 10 Car. 1. st. 2 c. 23. Ir.

† 2ucc? "convicted"

s. 2.

Penalty on constables neglecting to do their duty.

s. 3.

Proviso.

15 Car. 2. c. 2. Eng.

Who may apprehend stealers of wood, &c.

garden, or elsewhere, to the intent to take and carry away the same,* or cut or spoil any woods or underwoods, poles or trees standing, (not being felony by law,) and his procurer or receiver knowing the same, being convicted by confession, or oath of a witness, before a justice of peace, mayor, bailiff, or other head officer, where the offence shall be committed, or the party apprehended, shall give the party such recompense and satisfaction for his damages, and within such time as by such justice of peace, &c. shall be appointed; and if such offender shall be thought by such justice, &c. not sufficient to make recompense for said damages, then said justice, &c. shall commit him to some constable or other inferior officer of the city, borough, town, or hamlet where the offence shall be committed, or the party apprehended, to be whipped; and for every such offence, of which such offender shall be eftsoons [† committed] in form above limited, he shall receive the punishment of whipping. And by s. 2. if any constable or inferior officer do refuse, or do not at the commandment of any justice of peace, or other head officer, execute by himself, or by some other to be by him appointed, upon the offender, the punishment limited by this statute, it shall be lawful for said justice to commit such constable, &c. to the common gaol of the county, &c. until the offender be, by the said constable, &c. or some other by his procurement, punished and whipped as above limited. Provided (s. 3.) that no justice, &c. shall execute this statute for any offence to himself, unless associated with another justice. And by the 15 Car. 2. c. 2. Eng. every constable, or other person in every county, &c. where they shall be officers or inhabitants, shall have power to apprehend, (or cause, &c.) every person they shall suspect having or carrying, or any ways conveying any burden or bundle of any wood, underwoods, poles, or young trees, or bark or bast of any trees, or any gates, stiles, posts, pales, rails, or hedge-wood, broom or furze; and by warrant of a justice to search houses, &c. for the same; and wheresoever they find any such to apprehend (or cause, &c.) every person suspected for the cutting and taking the same, and them (as well those apprehended

apprehended carrying such wood, &c. as those in whose houses or places any such wood, &c. shall be found) to carry before a justice of peace of the same county, &c.; and if such person do not then and there give a good account how he came by such wood, &c. by the consent of the owner, such as shall satisfy the said justice, or else shall not, within a convenient time to be set by said justice, produce the party of whom he bought such wood, &c. then such person so suspected, and not giving a good account, nor producing a witness upon oath to testify the said sale, shall be adjudged convicted of cutting and spoiling of such wood, &c. within the meaning of the 43 Eliz. *supra*, and shall be liable to the punishment therein, and to such other proceedings and punishments as appointed by this act. By s. 3. every person convicted of said offence in manner aforesaid, shall, for the 1st offence, give the owner such recompense for his damages, and within such time as such justice shall appoint, and moreover pay down presently unto the overseers for the use of the poor of the parish where the offence was committed, such sum, not exceeding 10s. as said justices shall think meet; and if such offender shall not make satisfaction to the owner, and pay said sum to the poor, then said justice shall commit the offender to the house of correction for such time as said justice shall think fit, not exceeding a month, or to be whipped by the constable or other officer, as in his judgment shall seem expedient: And every person so convicted a 2nd time, shall be sent to the house of correction for a month, and be there kept to hard labour: And if such person be so convicted a 3rd time, he shall be adjudged and deemed an incorrigible rogue. And by s. 4. whosoever shall buy any burdens of wood, or any poles or sticks of wood, or other the premises, which may be justly suspected to have been stolen or unlawfully come by, it shall be lawful for the said justices of peace, &c. within their jurisdictions, upon complaint, to examine the matter upon oath; and if they shall find that the same was bought of a person who might justly be suspected to have stolen or unlawfully come by the same,

s. 3.

*Penalty for 1st
2nd and 3rd
offence.*

s. 4.

*Buyers of stolen
wood, how to be
dealt with.*

s. 5.

Limitation for prosecutions.

1 Geo. 1. st. 2. c. 48. s. 1. Eng.

(6 Geo. 1. c. 16. s. 1. Eng.)

Owners of trees, &c. cut down, &c. shall have satisfaction from the inhabitants of the place.

* By 6 Geo. 1. c. 16. Eng.

and that the same was stolen, &c. said justices, &c. shall award the party who bought the same to pay treble the value thereof to the party from whom the same was stolen, &c. ; and in default of present payment thereof, to issue their warrants to levy the same by distress, &c. ; and in default of such distress to commit the party to gaol, at his own charge, for a month. Provided (s. 5.) that no person shall be questioned for any offence upon this law, that hath been punished for the same by any former law, nor be punished by this law unless questioned within 6 weeks after the offence. The 1 Geo. 1. st. 2. c. 48. Eng. (as amended by the 6 Geo. 1. c. 16. Eng.) further enacts, that if any person shall, [*either by day or by night,] cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away any wood-springs or springs of wood, trees, poles, wood, tops of trees, under-woods or coppice-woods, thorns or quicksets, without the consent of the owner of such woods, wood-grounds, parks, chases or coppices, plantations, timber-trees, fruit trees, or other trees, thorns or quicksets, or of the person chiefly entrusted with the care and custody thereof, [*or shall break open, throw down, level, or destroy any hedges, gates, posts, stiles, railing, walls, fences, dikes, ditches, banks, or other enclosures of such woods, &c.] such lords of manors, owners and proprietors, that shall be damaged thereby, shall have such remedy, and receive such recompense from the inhabitants of the parishes, towns, hamlets, villages, or places joining on such wood-springs or springs of wood, wood-grounds, parks, chases, or coppices, and recover such damages against such parish, &c. and in the same manner, as for dikes and hedges overthrown by persons in the night, or at another season when they suppose not to be espied, as by the 13 Edw. 1. st. 1. c. 46. E. & I.† is

* The 1 Geo. 1. st. 2. c. 48. Eng. extended only to such acts done "maliciously."

† The clause of the 13 Edw. 1. hereby referred to provides, that where it happeneth that one having right to approve, doth then raise a dike or a hedge, and some by night, or at another season when they suppose not to be espied, do

is provided,* unless such offender shall by such parish, &c. be convicted within 6 months after such offence. And by s. 2. (as amended by the 6 Geo. 1. c. 16.) if any person shall in a riotous, open, tumultuous, or in a secret and clandestine manner, forcibly, or wrongfully and maliciously, and without the consent of the proprietor, wood-reeve, wood-keeper, or person chiefly entrusted with the care and custody of such woods, wood-grounds, parks, chases, coppices or plantations, cut down, destroy, break, bark, throw down, burn, take, deface, spoil, or carry away any wood or springs of wood, under-wood or coppice-wood, or shall in such riotous, forcible, tumultuous, secret or clandestine manner as aforesaid, maliciously break open, &c. any hedges, &c. of such woods, &c. then it shall be lawful for any 2 justices of peace of the county, &c. wherein such offence shall be committed, or for the justices in open sessions, upon complaint by any inhabitant of the aforesaid parish, &c. or of the owner of such tree, wood, wood-ground, park, chase, coppice, or plantation, or of any other, to cause such offender to be apprehended for any of the offences aforesaid, and to hear and finally determine the same: and if such justices shall convict any person of any of said offences, such justices shall commit such offender to the house of correction, to be kept to hard labour for 3 months; and where there are no houses of correction in any county, &c. where such offender shall be convicted, said justices shall commit such offender to such prison as is appointed for other criminals, for 4 months; and shall also order such offender to be publicly whipped by the master of such house of correction, once every month, during such 3 months, in such borough

s. 2.

(6 Geo. 1. c. 16.

s. 2. Eng.

*Offences how
inquirable.**Offenders how
punished.*

3 P 2

or

do overthrow the hedge or dike, and it cannot be known by the assize or jury who did overthrow the hedge, &c. and the men of the neighbouring towns will not indict such as be guilty of the fact, the towns near adjoining shall be distrained to raise the hedge and dike at their own costs, and to yield damages.

* The 1 Geo. 1. st. 2. c. 48. Eng. here adds, "and where such offence shall be committed in Scotland, to be recovered by way of summar action, and in the same manner as damages in other cases of riot are by the laws there." which words are not in the 6 Geo. 1. c. 16. Eng.

Quo? "offence"

s. 3

Security required from offenders.

6 Geo. 1. c. 16.
s. 3. Eng.

Persons enforcing these acts, protected against actions.

29 Geo. 2. c. 36.
s. 8. Eng.

Persons cutting, &c. trees in commons, liable to the penalties of the 6 Geo. 1. c. 16.

s. 6.

And owners of commons enclosed, entitled to recompense.

or corporation, if the offence be committed therein, and not otherwise; or in the market town where such house of correction stands, or in the next market-town next to such house of correction, and in the county where such offence shall be committed, on the market-day of such town, between the hours of 11 and 2; and in such places where there is no house of correction, the said justices shall order such offender to be publicly whipped by the common hangman or executioner, once every month during such 4 months, on the market-day of any borough or corporation where such [*offender] shall be committed, or on the market-day of some town, between the hours of 11 and 2. And by s. 3. before any such offender shall be discharged, he shall find sureties for his good behaviour for 2 years. And by the 6 Geo. 1. c. 16. s. 3. Eng. in case any suit shall be brought against any person for any thing done in pursuance of this act, or of the 1 Geo. 1. st. 2. c. 48. or 13 Edw. 1. st. 1. c. 46. he may plead the general issue, and shall have treble costs of verdict, nonsuit, or discontinuance. And by the 29 Geo. 2. c. 36. s. 8. Eng. if any person shall unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away any tree growing in any waste, wood, or pasture, in which any person, &c. hath a right of common, such offender shall be in like manner convicted of such offence, and shall incur the like penalty as directed by the 6 Geo. 1. c. 16. *supra*. And by s. 6. if any person, after the time limited for appealing to the sessions against any enclosure made in pursuance of this act, shall, either by day or night, unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away, any trees growing in any such enclosure, without consent of the owner thereof, such owner shall have such remedy, and receive such satisfaction and recompense from the inhabitants of such parishes, towns, hamlets, villages or places adjoining to such enclosures, and recover such damages against them, and in like manner as directed by the 13 Edw. 1. st. 1. c. 46. E. & I. (*vide* p. 934.) unless the offender shall be convicted in 6 months after
the

the commission thereof. And by s. 7. it shall be lawful for 2 justices of the peace of the county, &c. where the offence shall be committed, or for the justices of such county, &c. in open sessions, on complaint, to cause every such offender to be apprehended for such trespass, and to hear, &c. the same, and inflict the like penalty as directed by the 6 Geo. 1. c. 16. *supra.* By the 6 Geo. 3. c. 36. Eng. every person who shall in the night time lop, top, cut down, break, throw down, bark, burn, or otherwise spoil or destroy, or carry away any oak, beech, ash, elm, fir, chesnut, or asp, timber-tree, or other tree standing for timber, or likely to become timber, without the consent of the owner, shall be guilty of felony, and liable to the pains of felony; and the court shall have authority to transport such offender for 7 years. And every person who shall be wilfully aiding, abetting, or assisting in such cutting down, breaking, throwing down, barking, burning, or otherwise spoiling or destroying, or carrying away any such oak, &c. shall be subject to the same punishment as if he had stolen the same. And the 6 Geo. 3. c. 48. Eng. further enacts, that every person who shall wilfully cut or break down, bark, burn, pluck up, lop, top, crop, or otherwise de- face, damage, spoil or destroy, or carry away any timber-tree, or tree likely to become timber, or any part thereof, or the lops or tops thereof, without the consent of the owner, or in any of his majesty's chases or forests, without the consent of the surveyor, or his deputy, or persons entrusted with the care of the same, and shall be convicted on the oath of a witness, before any justice of peace for the county, &c. wherein such offence shall have been committed, shall, for the 1st offence, forfeit such sum not exceeding £20. as to such justice shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice; and upon non-payment thereof, such justice shall commit the offender to the common gaol of the county or place where the offence shall be committed, for any time not exceeding 12 nor less than 6 months, or until the penalty and charges shall be paid; and if any person shall be so convicted of such offence a 2nd time, he shall

s. 7.

*Such offences
how inquirable.*6 Geo. 3. c. 36.
Eng.*Persons stealing
&c. timber trees
in the night-
time, to be
transported.*6 Geo. 3. c. 48.
s. 1. Eng.*Persons carry-
ing away, &c.
timber trees, at
any time, how
punished.*

shall forfeit such sum not exceeding £30. as to such justice shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice; and upon non-payment thereof, such justice shall commit the offender to the common gaol of the county or place where the offence shall be committed, for any time not exceeding 18 nor less than 12 months, or until the penalty and charges shall be paid; and if any person so convicted shall be guilty of the like offence a 3rd time, and thereof be convicted [*in like manner,] such person shall be deemed guilty of felony, and the court before whom he shall be tried shall have authority to transport him for 7 years in like manner as other felons. And by s. 2. (as amended by the 13 Geo. 3. c. 33. Eng.) all oak, beech, chesnut, walnut, ash, elm, cedar, fir, asp, lime, sycamore, and birch trees, [†and poplar, alder, larch, maple, and horn beam] shall be deemed to be timber trees within this act. By s. 4. every person who shall go into the woods, underwoods, or wood-grounds of any of his majesty's subjects, not being the lawful owner thereof, and shall there cut, lop, top, or spoil, split down or damage, or otherwise destroy any kind of wood or under-wood, poles, sticks of wood, green stubs or young trees, or carry or convey away the same, or shall have in his custody any kind of wood, &c. and shall not give a satisfactory account how he came by the same, and shall be convicted thereof before a justice of peace, on the oath of a witness, shall forfeit and pay immediately on conviction any sum not exceeding 40s. together with the charges previous to and attending such conviction, to be ascertained by the justice who shall convict the offender; and if any person shall commit any of said offences a 2nd time, and shall be thereof convicted as aforesaid, he shall forfeit any sum not exceeding £5. together with the charges previous to and attending such conviction, to be ascertained as aforesaid; and if any person shall commit any of the offences aforesaid a 3rd time, and be convicted thereof according

s. 2.
(+ 13 Geo. 3.
c. 33. Eng.)

*What trees shall
be deemed tim-
ber trees.*

s. 4.
*Persons taking
any wood or un-
der-wood, &c.
or having such
in their posses-
sion without ac-
counting for it,
how punished.*

* This seems a mistake. Vide 2 East P. C. p. 590.

ing to law, he shall be adjudged an incorrigible rogue.

By s. 5. the justices of peace for the counties, &c.

s. 5.

wherein any of the offences against this act shall be com-

mitted, are authorized to put this act in execution, and

Jurisdiction of justices.

to administer oaths to witnesses. By s. 6. it shall be

s. 6.

lawful for justices, unless the respective forfeitures shall

be paid down upon conviction, where not otherwise di-

Forfeitures how enforced.

rected by this act, by warrant under their hands and

seals, to commit such offenders, for the 1st offence, to the

house of correction for a month, to hard labour, and to

be once whipped there, and for the 2nd offence, where

not otherwise directed by this act, to the house of cor-

rection for 3 months, to hard labour, and to be whipped

once in every one of said 3 months. By s. 7. if any per-

s. 7.

son shall hinder or attempt to prevent the seizing or se-

curing any person employed in carrying away any such

timber or other trees, he shall forfeit £10. to the person

Penalty for obstructing officers in seizing offenders.

who shall convict such offender; and if said sum be not

immediately paid on conviction, such person shall, by

the justices before whom he shall be convicted, be com-

mitted to the house of correction, to hard labour, for

any time not exceeding 6 calendar months. And by

s. 8. one moiety of all forfeitures directed to be paid by

s. 8.

this act, and not otherwise directed, shall go to the in-

former, and the other to the person aggrieved. By s. 9.

Application of forfeitures.

all convictions under this act shall be certified by the

s. 9.

justice of peace before whom the same shall be made,

to the next general quarter sessions of the peace, to be

Form for convictions.

filed amongst the records of said sessions; and such con-

viction shall be fairly written on parchment or paper in

a form hereby prescribed, or to the like effect: which

conviction shall not be quashed, &c. for want of form,

nor be removed by *certiorari* into the king's bench, but

shall be final.

And the 9 Geo. 3. c. 41. s. 8. Eng. extends the pro-

visions of the 6 Geo. 3. c. 48. s. 4. &c. *supra*, to his ma-

jesty's forests and chases, and to every person who shall,

without legal authority, by night or day, cut down, de-

stroy, take, carry, or convey away, any hollies, thorns,

or quicksets, growing or being upon any of his majesty's

forests

Provisions of 6

Geo. 3. c. 48.

s. 4. extended

to the king's

forests, &c. and

to hollies, &c.

9 Geo. 3. c. 41.

s. 8. Eng.

- forests or chases, or within the wood-grounds of any of his majesty's subjects; or who shall have in his custody or possession any such hollies, &c. and shall not give a satisfactory account how he came by the same, and shall be thereof convicted before a justice of peace in the manner prescribed by said act. And by s. 9. the conviction of every offender against this act, shall be certified by the justice before whom the same shall be made, to the next quarter sessions of the peace, to be filed amongst the records of said sessions; and such conviction shall be in the form hereby prescribed, or to the like effect; which conviction shall not be quashed, &c. for want of form, nor removed by *certiorari*. And the
- s. 9.**
Convictions certified, &c.
- 45 Geo. 3. c. 66. s. 1. G. B. 45 Geo. 3. c. 66. G. B. further enacts, that the provisions of the 6 Geo. 3. c. 48. s. 4. &c. *supra*, and 9 Geo. 3. c. 41. s. 8. & 9. *supra*, shall extend to all woods and wood-ground belonging to his majesty in right of his duchy of Lancaster, or otherwise, and whether such woods, &c. shall be within any of his majesty's forests or chases or not, and also to every person who shall, without legal authority, by night or day, take, carry, or convey away any bark, being in any forests, chases, woods or wood-grounds of his majesty, or any of his subjects, or who shall have in his custody or possession any bark, and shall not give a satisfactory account how he came by the same, and shall be thereof convicted before a justice of peace in the manner prescribed by the 6 Geo. 3. c. 48. *supra*. And by s. 2. the convictions of offenders against this act, shall be certified by the justices of peace before whom the same shall be made to the next quarter sessions of the peace, to be filed amongst the records of said sessions; and such conviction shall be in the form hereby prescribed, or to the like effect; which convictions shall not be quashed for want of form, nor removed by *certiorari*. And by s. 3. if any person shall commit any of the offences specified in the 6 Geo. 3. c. 48. 9 Geo. 3. c. 41. or this act, more than 3 times, and shall be thereof convicted before a justice of peace in the manner prescribed by the 6 Geo. 3. c. 48. such person shall, for every such offence committed
- s. 2.**
Convictions certified, &c.
- s. 3.**
Persons offending a 4th time, &c. how punished.

mitted subsequent to the 3rd offence, be adjudged an incorrigible rogue, and punished as such.

The 10 Car. 1. st. 2. c. 23. Ir. has followed the 43 Eliz. c. 7. Eng. *ante* p. 931. with such deviation only as is noted in the margin. And the 2 Geo. 1. c. 16. Ir.* further enacts (s. 8.) that it shall be lawful for any person to seize to his own use any gad or with, which he shall find in any fair, market, town, or place; and the person in whose possession such gad, &c. is found, shall be carried before a justice of peace living near the place where such seizure is made; which justice shall, by his warrant, command the petty constable of the next parish wherein there is a market-town, to whip such offender through the market between the hours of 10 and 12 in the day, until the blood shall come. For the further preservation of woods and timber trees, the 7 Geo. 3. c. 23. Ir. enacts, that every person who shall grub up, saw, or otherwise cut down any tree, not being authorized by the owner, shall, on conviction thereof before a justice of peace on the oath of a witness, forfeit to the owner of such tree treble the value thereof, according to the following valuation, *viz.* every ash, elm, beech, or sycamore tree, of $\frac{1}{2}$ an inch diameter, shall be valued at no less than 6 $\frac{1}{2}$ d; and every such tree of an inch diameter, at no less than 1s.; every such tree of 2 inches diameter, at no less than 2s.; every such tree of 3 inches diameter, at no less than 2s. 6d.; every such tree of 4 inches diameter, at no less than 3s.; every such tree of 5 inches diameter, at no less than 4s.; every such tree of 6 inches diameter, at no less than 4s. 6d.; every such tree of 7 inches diameter, at no less than 6s.; and every such tree of 8 inches diameter, at no less than 8s.; and every oak tree from $\frac{1}{2}$ an inch diameter to 8 inches diameter, shall be valued at double the value of the above-mentioned trees; and every such oak, ash, elm, beech, and sycamore, above 8 inches diameter, shall be valued by 2 appraisers sworn for the purpose; and the diameter of every such tree shall be measured at the butt end; the said penalty at treble value according to the valuations

Corresponding provisions in Ireland.

15 Car. 1. st. 2. c. 23. Ir.

2 Geo. 1. c. 16. s. 8. Ir.

Persons found with gads or withs, how punished.

7 Geo. 3. c. 23. s. 1. Ir.

Penalties for grubbing up, &c. timber trees.

† This clause is an amendment of the 9 Ann. c. 5. s. 5. Ir. which statute is repealed by the 15 & 16 Geo. 3. c. 26. s. 1. Ir.

tions aforesaid, to be levied by distress, &c. and where no distress can be found, the said offender shall be committed to the common gaol of the county where such offence was committed, by warrant of such justice, for any time not exceeding 12 months; and every person buying or receiving any tree knowing the same to be stolen, shall, on conviction as aforesaid, be liable to the penalties aforesaid. And by s. 3. it shall be lawful for any

s. 3.

*Constables, &c.
may search for
timber, &c.*

constable or other person, by warrant of any justice of peace, granted upon information on oath, to make search in all suspected houses and places, for any wood, trees, poles, or timber; and if such person shall find any of the premises in the possession of any person suspected to be guilty, he shall bring such suspected person before such justice of peace; and if such person shall not make full proof to the satisfaction of such justice, that such woods, trees, poles, or timber, were fairly and honestly bought by such person, or given to him by the owner or proprietor thereof, such person shall stand convicted of a breach of this act, and shall be subject to the penalties above inflicted for the 1st offence; and no writing of any person acknowledging the receipt of a valuable consideration for such wood, &c. shall be deemed a sufficient proof of a fair purchase, until the truth of such writing be ascertained. Provided (s. 4.) that any person

s. 4.

*Appeal to
sessions.*

aggrieved by any adjudication of any such justice, may appeal to the next quarter sessions for the county, &c. where such offence is supposed to have arisen, whose

15 & 16 Geo. 3.
c. 26. s. 2. 1r.

determination shall be final. And the 15 & 16 Geo. 3.

*Several offences
in respect to
timber trees,
fruit trees,
shrubs, &c.
how punished.*

c. 26. 1r. further enacts, that every person who shall wilfully cut down, or break down, bark, burn, pluck up, lop, top, or otherwise damage, spoil or destroy any timber tree, or fruit tree, or any young trees or shoots, or any part thereof, without the consent of the owner; or who shall be aiding or assisting in so doing; or who shall have in his possession any timber-tree, or any kind of wood, under-wood, poles, sticks of wood, shoots or young trees, [shrubs, plants, or roots,] and shall not give a satisfactory account that he came fairly by the same, or who shall fix up in any church or chapel the green

branches

branches of any tree or shrub, having the leaves on it, except holly, bay, lauristina, yew, or ivy, and shall be convicted upon the oath of a witness before a justice of peace within his jurisdiction, shall forfeit such sum not exceeding £5. as to such justice shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justice, and upon non-payment such justice shall commit such offender to the common gaol, or house of correction of such county, by warrant, for any time not exceeding 6 months, or until the penalty, &c. shall be paid. And by s. 3. all oak, beech, ash, elm, larix, sycamore, walnut, chesnut, cherry, lime, poplar, alder, quicken, or mountain-ash, holly-timber, sallow, asp, birch, cedar, pine, and fir trees, shall be taken to be timber trees, within this act, and every other act now in force relative to timber trees.

s. 3.

What trees deemed timber trees.

By s. 4. every person who shall [wilfully cut down, or break down, pluck up, or spoil, burn or destroy, or take, carry, or convey away any shrub, plant, or root, out of the nurseries, gardens, woods, or fields of any other person, without the consent of the owner, or who shall be aiding or assisting in so doing,] or who shall make use of any gads, withs, bows, or backbands, made of wood, on his ploughs, harrows, cars, carts, harness, or tackle,* or in whose custody any gads or withs shall be found, or who shall make use of any scollops of oak or ash, or any other timber tree, for thatching of houses; or who shall put up any may-bush opposite or near to his house, or suffer any may-bush to be so put up, or to remain for 3 hours opposite or near to his house; or who shall keep any bark or rind of trees in his house or possession,

s. 4.

*Penalty for cutting down, &c. shrubs, &c.**Or making use of gads, &c.*

* By the 21 Geo. 2. c. 13. s. 15. If all cars and carriages making use of any part of any saplin or tree, for a bow or backband, or making use of any saplins twisted into gads for backbands, halters, traces to draw by, or gads, commonly called long gads, shall, for passing through any turnpike-gate pay 1½d. over and above the toll required to be paid by any act now in force; and every horse carrying any pack tied with gads made as aforesaid, shall, for passing through, &c. pay 1d. above the toll required to be paid by any act now in force; and the trustees of every turnpike-act are required to give notice in writing (by posting the same on every turnpike-gate) that said additional tolls will be demanded.

Powers and duties of justices of peace.

s. 6.

session, not being a known tanner or dyer, or person lawfully possessed of trees or woods, or not having lawfully obtained the same from some person so possessed of trees or woods, and shall be convicted upon the oath of a witness before a justice of peace within his jurisdiction, shall forfeit such sum of money as to such justice shall seem meet, not exceeding 40s. together with the charges previous to and attending such conviction, to be ascertained by such justice who shall convict said offender; and upon non-payment thereof, such justice shall commit such offender to the common gaol or house of correction of such county, by warrant, for any time not exceeding 3 months, or until said penalty and charges shall be paid. And by s. 6. justices of peace within their jurisdictions are authorized to put this act in execution, and to administer oaths to witnesses; and one moiety of such forfeitures inflicted by this act, and not otherwise applied, shall be paid to the informer, with full costs, and the other to the poor of the parish; and it shall be lawful for any constable or other person, by warrant of any justice of peace, to make search in all suspected houses and places within the jurisdiction of such justice, for any timber or fruit trees, sticks, shoots, [shrubs, plants, roots,] or bark; and if such constable or person shall find any such in the possession, house, out-house, field, or ground, of any person suspected to be guilty of any of the offences aforesaid, he shall bring such suspected person before such justice of peace; and if such person shall not make full proof to the satisfaction of such justice, that such timber, &c. was fairly and honestly bought by him, or given to him by the owner, he shall stand convicted of a breach of this act, and shall be subject to the several penalties herein directed for such offence.

The 23 & 24 Geo. 3. c. 39. Ir. recites, (s. 13.) that it is usual with timber-stealers to saw and work up, as soon as possible, the green timber they have illegally possessed themselves of; and therefore enacts, that any justice of peace, or person authorized under his hand and

23 & 24 Geo. 3.
c. 39. s. 13. Ir.

Fresh wrought timber seized on suspicion.

and seal for that purpose, shall have power to seize all fresh wrought timber, whether wooden ware, cars, carts, fork or shovel handles, hoops, ploughs, harrows, or rakes tails, when found in possession of any suspected person; and if such person cannot give a satisfactory account of having procured them honestly, he shall be liable to such penalty, not exceeding triple the customary value of such wooden ware, &c. so found in his possession, as such justice shall adjudge, one half to the use of the poor of the parish, and the other to the informer; or, if there be none, to such sub or petty constable, or wood-ranger, as shall appear to the justice before whom the offender is convicted, to have been most active in carrying the law into execution. Provided (s. 14.) that if such person so offering to sale such green wrought timber, shall give the security of 2 responsible persons to such justice, or person authorized under him, for his appearance before such justice at a day and hour appointed, in order to exonerate himself of the charge made against him relative to such wrought timber, he may have liberty to sell the same. But by s. 15. if such person when convicted before a justice of peace, shall not immediately pay the fine ordered by such justice, he shall be committed to the house of correction, or county gaol, until such fine shall be paid; or if not paid, to remain there for such time as said justice shall direct, not exceeding 3 months for the 1st offence, 6 for the 2nd, and 12 for every subsequent offence. And by s. 16. all persons once convicted of cutting down, grubbing up, barking, or otherwise destroying any tree, without the consent of the owner, before any justice of peace, shall be liable, upon conviction for their 2nd offence, to such fine, not less than £5. nor more than £10. as to such justice shall seem proper, to be disposed of as aforesaid; or, on non-payment thereof, to 6 months imprisonment, and for their 3rd offence to a penalty of £10. or on non-payment thereof, to an imprisonment for any time not exceeding 12 nor less than 6 months. By s. 17. every person who shall cut down or grub up any tree between sun-set and sun-rise, without the consent of the owner, shall

s. 14.

Proviso.

s. 15.

Penalties here enforced.

s. 16.

Penalties for subsequent offences.

s. 17.

Felony to cut down, &c. trees by night.

shall, upon information being given on oath of a witness, before a justice of peace of the county in which such tree shall have been so cut down, &c. be committed to the county gaol as a felon, and being convicted at the general assizes for said county, shall suffer the pains of felony. But by s. 18. the owners of such trees may pursue the remedies of the 7 Geo. 3. c. 23. *Ir. ante* p. 941.

s. 18. *Proviso.*

s. 20. By s. 20. if any person shall discover and prosecute to conviction any person who shall illegally cut down any tree of the value of 5s. he shall receive a reward of £5. to be levied by presentment of the grand jury at the assizes, in the parish in which such offence shall be committed.

Reward for discovering offenders.

31 Geo. 3. c. 40. s. 1 & 2. *Ir.* The 31 Geo. 3. c. 40. *Ir.* which has been already briefly referred to, (vol. 1. p. 441.) enacts, (s. 1 & 2.) that no person holding any lands by lease for 1 or more lives, or for years, or by will or sufferance, shall cut down, grub up, lop or top any tree, wood, or underwood, growing upon the lands so held, under colour of estovers, or of house-bote, plough-bote, hay-bote, cart-bote, or any other bote, or under any pretence, unless so far as such person shall be authorized thereto by covenant in the lease under which the lands are held, or unless such person shall have the consent of the owner thereof under his hand and seal; upon pain of being subject to the penalties enacted against persons who shall wilfully cut down, pluck up, lop, top, or otherwise damage any tree, without the consent of the owner thereof first had

Persons holding lands for lives, 7 years, or at will, liable to laws against cutting down trees, &c.

Proviso.

s. 3. [*in writing.] And by s. 3. no person in whose possession there shall be found any tree, or any kind of wood, underwood, poles, sticks of wood, shoots or young trees, so cut or grubbed up, contrary to this act, shall be deemed by any justice of peace to have come fairly by the same within the meaning of the 15 & 16 Geo. 3. c. 26. *Ir. supra*, or within this act. By s. 4. every justice of peace who shall wilfully refuse or neglect to act as a justice of peace upon any complaint touching the offence aforesaid, or any offence against the said recited act, or to carry this, or any law heretofore made for the encouragement

Punishment where trees, &c. found in the possession of such persons.

s. 4. *Duty of justices of peace enforced.*

† This, as Mr. Ball observes, is an erroneous reference to the other acts.

encouragement of planting or the preservation of trees, into execution, shall be subject to the like penalty,* to be recovered in like manner, as is enacted respecting any justice of peace who shall wilfully neglect or refuse to carry into execution any law relative to the linen or hempen manufactures. Provided (s. 5.) that nothing herein shall extend to any person holding land by virtue of a lease for lives renewable for ever, in respect of such land, or to any trees, wood, or underwood growing on the same, nor to affect any person in respect of any trees which have been or shall be planted and registered in pursuance of any law heretofore made for the encouragement of planting. By the 7 Geo. 3. c. 23. s. 2. Ir. no person shall strip bark from any growing tree, unless being thereunto authorized by the owner of such tree, on pain of forfeiting to the said owner, on conviction thereof before a justice of peace, on the oath of a witness, treble the value of such tree; and every such tree from an inch diameter shall be valued according to the valuation above-mentioned;† and every tree above 8 inches diameter shall be valued by 2 sworn appraisers: and no person, except public and known tanners and dyers, and persons possessed of woods, shall keep any bark or rind of trees in their houses or other places, under pain of their forfeiting to any informer a sum not exceeding 50s. nor less than 30s. on conviction as aforesaid; the said penalties to be levied by distress, &c.; and when no distress can be found, the said offender shall be committed to the common gaol of the county where such offence was committed, by warrant of such justice, for any term not exceeding 6 months; and it shall be lawful for any constable, officer, or other person, by warrant of a justice of peace, granted upon information on oath, to make search in all suspected houses and places for bark or rind of any tree.‡ “To restrain the villainous practice which prevailed in the west and north-west coasts of Ireland, of stripping trees merely for the bark thereof in order to tan or bark nets.” the 17 & 18 Geo. 3. c. 19. Ir.

s.5.

*Proviso.*7 Geo. 3. c. 23.
s. 2. Ir.*Penalty for stripping bark of growing trees.*

† vide p. 941.

Penalty for persons (not being tanners) having bark in their possession.† Vide 15 & 16
Geo. 3. c. 26. s. 4.
ante p. 943-4.17 & 18 Geo. 3.
Ir. c. 19. s. 10. Ir.

* *Viz.* £20. to the informer, to be recovered by civil bill, in 9 months after the offence, by 21 & 22 Geo. 3. c. 35. s. 54. Ir.

*Penalty for
using bark to
cure fishing nets.*

s. 11.

*Burden of proof
on whom.*

s. 12.

*Penalty for
barking trees
clandestinely.*

17 & 18 Geo. 3.
c. 35. s. 2. Ir.

*None save public
tanners or dyers
shall tan, dye,
&c. with bark
of trees.*

Penalty.

23 & 24 Geo. 3.
c. 39. s. 19. Ir.

*Penalty on the
owners of goats
doing damage to
trees.*

Ir. (the other clauses of which have been already stated, *ante* p. 883, &c.) enacts, (s. 10.) that all nets for taking herrings, salmon, or any sea-fish, and all fishing lines, shall be cured with tar and oil, and not barked or tanned, under pain of forfeiting such nets to the informer, upon conviction before a justice of peace. And by s. 11. the proof shall lie on the owner of said nets, that they were made and cured before brought to said coasts. And by s. 12. in case any person shall be found barking of any tree for the purpose of tanning of nets, or any other purpose, clandestinely, or without proper authority, he shall forfeit £5. recoverable before a justice, upon the oath of a witness, wholly to the informer; and in default of payment, to be committed by a justice's warrant to the county gaol, for any time not exceeding 6 months, unless the forfeiture shall be sooner paid. And the 17 & 18 Geo. 3. c. 35. Ir. recites, (s. 2.) that the bark of standing trees has been usually stripped for tanning hides of cattle in bogs, and other private places, and for dying linen, yarn, thread, and skins, in private houses: and therefore enacts, that no person, other than public and known tanners, shall tan, or keep in lime or other pits in order to tan, any hide or skin; and no spinner, weaver, skinner, or other person not being a known dyer, shall colour or dye any linen, yarn, thread, skins, or gloves, with the bark of any tree growing in this kingdom, not being his own property; upon pain (being convicted thereof by the oath of a witness, before a justice of peace within his jurisdiction,) of forfeiting such sum as to such justice shall seem meet, not exceeding £5. nor less than 40s. together with the charges previous to and attending such conviction, to be ascertained by such justice; and upon non-payment thereof, such justice shall commit such offender to the common gaol or house of correction, by his warrant, for any time not exceeding 3 months, or until said penalty and charges shall be paid. And the 23 & 24 Geo. 3. c. 39. Ir. recites (s. 19.) that the keeping of goats in wood-lands or in any improved country, tends to the destruction of timber; and therefore enacts, that upon complaint made before any justice

justice of peace of any damage or trespass committed by any goat, the party owning the same shall be summoned before said justice, and on proof of said trespass being made, on the oath of a witness, such owner of the goats may be fined any sum not exceeding 20s. for every goat so trespassing, as said justice shall think fit, to be paid to the complainant if he shall demand the same, or otherwise to the church-wardens for the use of the poor of the parish; and if any person shall find a goat trespassing in his plantation, he may take the same, and keep and dispose of it as his own.

Next as to roots, shrubs, and plants: By the 31 Geo. 2. *Penalty for stealing madder roots.* c. 35. s. 5. Eng. if any person shall steal and take away, or wilfully and maliciously pull up or destroy any madder roots growing or being in any lands or grounds belonging to any person, and shall be convicted before a justice of peace of the county, &c. where the offence shall be committed, either by confession, or the oath of a witness, he shall, for the 1st offence, pay to the owner of such madder roots, such satisfaction for his damage, and within such time, as said justice shall appoint; and shall, moreover, pay down upon such conviction, unto the overseers of the parish where the offence was committed, for the use of the poor, such sum not exceeding 10s. as to said justice shall seem meet; and if such offender shall not make such satisfaction to the owner, and also pay such sum to the poor as aforesaid, then said justice shall commit such offender to the house of correction for any space not exceeding a month; or shall order such offender to be whipped by the constable or other officer, as to said justice shall seem meet; and if such offender shall be convicted a 2nd time of such offence, he shall be committed to the house of correction for 3 months. Provided s. 6. that no person shall be prosecuted for any such offence, unless such prosecution be begun within 30 days after the offence. And by the 13 Geo. 3. c. 32. Eng. (as amended by the 42 Geo. 3. c. 67. G. B.) if any person shall steal, take away, wilfully or maliciously pull up, injure, or destroy any turnips, potatoes, cabbages, parsnips, beans, pease, or
VOL. II. 3 Q carrots,

Penalty for stealing madder roots.

31 Geo. 2. c. 35. s. 5. Eng.

s. 6.

Limitation for prosecutions.

13 Geo. 3. c. 32.

s. 1. Eng.

(42 Geo. 3. c. 67. G. B.)

*Penalty for
stealing, &c.
turnips, &c.*

**By 42 Geo. 3.
c. 67. G. B.*

*s. 2.
Who competent
witnesses.*

s. 3.

Proviso.

*s. 4.
Form of con-
viction.*

s. 5.

*Limitation for
prosecutions.*

*6 Geo. 3. c. 48.
s. 3. Eng.*

*Persons pluck-
ing up, &c.
roots, &c. how
punished for 1st
2nd and 3rd
offence.*

carrots, growing or being in any garden, [*orchard,] lands or grounds, open or enclosed, and shall be thereof convicted before a justice of peace for the county or place where the offence shall be committed, by confession, or oath of a witness, such offender shall forfeit such sum not exceeding [*20s.] over and above the value of the goods so stolen, &c. as to such justice shall seem meet; which sum shall be distributed between the owner of such turnips, &c. and the overseers of the poor, or other person having the charge and disposal of the funds of the poor of the parish or place where the offence shall be committed, for the use of such poor, as such justice shall think fit; or the whole of such sum shall be given to the owner of such turnips, &c. or to the overseers of such poor, or other persons having the charge and disposal of the funds of such poor, according to the discretion of such justice; and in default of payment of such penalty, such justice shall commit the offender to the house of correction, (or prison in Scotland) to be kept to hard labour for any time not exceeding [*2 months,] unless such penalty shall be sooner paid: And the bringing the offender before such justice, and other proceedings, may be carried on in the most summary manner. And by s. 2. the evidence of the owner of such turnips, &c. and of the inhabitants of the parish or place where the offence shall be committed, shall be allowed. Provided (s. 3.) that where any such conviction shall be upon the oath of the owner, the whole of the penalty shall be paid to the overseers of the poor, &c. By s. 4. such convictions shall be drawn in a form hereby prescribed, or to that effect. Provided (s. 5.) that no person shall be prosecuted for such offence, unless such prosecution be begun within 30 days after the offence. And with respect to roots, shrubs, or plants in general, the 6 Geo. 3. c. 48. Eng. (the other clauses of which have been stated, p. 937, &c.) enacts, (s. 3.) that every person who shall pluck up, or cut, spoil, or destroy, or take or carry away any root, shrub, or plant, out of the fields, nurseries, gardens, or garden grounds, or other cultivated lands of any person, without the previous consent of the owner, and shall be convicted on the oath of a witness,

witness,* before any justice of peace for the county, &c. wherein such offence shall have been committed, shall, for the 1st offence, forfeit such sum, as to such justice shall seem meet, not exceeding 40s. together with the charge previous to and attending such conviction, to be ascertained by such justice; and any person so convicted, shall, for a 2nd offence, forfeit such sum as to such justice shall seem meet, not exceeding £5. together with the charges previous to and attending such conviction; and if any person shall be so convicted a 3rd time, he shall be guilty of felony, and may be transported for 7 years. By the 6 Geo. 3. c. 36. Eng. every person who shall, in the night-time, pluck up, dig up, break, spoil, or destroy, or carry away, any root, shrub, or plant, of the value of 5s. and which shall be growing, standing, or being, in the garden-ground, nursery ground, or other enclosed ground, of any person, shall be guilty of felony; and the court before whom he shall be tried, shall have authority to transport him for 7 years: And every person who shall be willingly aiding, abetting, or assisting in such plucking up, &c. such root, &c. of the value aforesaid; or who shall buy or receive such root, &c. knowing the same to be stolen, shall be liable to the same punishment as if he had stolen the same. The 15 & 16 Geo. 3. c. 26. Ir. (*ante* p. 943.) extends as well to shrubs, plants, and roots, as to timber trees, &c.

* "Before any one or more credible witness or witnesses" here added (it seems) erroneously.

6 Geo. 3. c. 36. Eng.

Penalty for stealing or destroying roots, &c. in the night-time.

15 & 16 Geo. 3. c. 26. s. 4. Ir.

Persons stealing lead, &c. affixed to dwelling houses, &c. guilty of felony, and transported for 7 years.

4 Geo. 2. c. 32. s. 1. Eng.

Accessories not punished.

By the 4 Geo. 2. c. 32. Eng. every person who shall steal, rip, cut or break, with intent to steal, any lead, iron-bar, iron-gate, iron-palisado, or iron-rail, being fixed to any dwelling-house, out-house, coach-house, stable, or other building used or occupied with such dwelling-house, or thereunto belonging, or to any other building; or fixed in any garden, orchard, court-yard, fence, or out-let, belonging to any dwelling-house or other building, shall be deemed guilty of felony; and liable to the pains of felony; and the court, &c. shall have power to transport such felon for 7 years; and every person who shall be aiding, abetting, or assisting in stealing, &c. any lead, &c. (*ut supra*), or who shall

buy or receive any such lead, &c. knowing the same to be stolen, shall be liable to the same punishment as if he had stolen the same. And this act is explained and amended by the 21 Geo. 3. c. 68. Eng. which enacts, that every person who shall steal, rip, cut, break, or remove, with intent to steal, any copper, brass, bell-metal, utensil, or fixture, being fixed to any dwelling-house, out-house, coach-house, stable, or other building used or occupied with such dwelling-house, or thereunto belonging, or to any other building, or fixed in any garden, orchard, court-yard, fence, or outlet, belonging to any dwelling-house or other building, or any iron-rails or fencing set up or fixed in any square, court, or other place, (such person having no title or claim of title thereto,) shall be guilty of felony; and the court, &c. shall have power to transport such felon for 7 years, or to order him to be detained in prison, and kept to hard labour, for any time not exceeding 3 years, nor less than 1 year; and within that time, if such court shall think fit, such offender shall be once, or oftener, but not more than 3 times, publicly whipped: And every person who shall be aiding, abetting, or assisting in stealing, &c. any copper, &c.; or who shall buy or receive any such copper, &c. knowing the same to be stolen, shall be liable to the same punishment as if he had stolen the same, although the principal felon has not being convicted of stealing the same. The 5 Geo. 2. c. 10. Ir. in analogy to the 4 Geo. 2. c. 32. Eng. *supra*, enacts, that every person who shall steal or rip, cut, or break, with intent to steal, any lead, iron-bar, iron-gate, iron pallisado, or iron-rail, or brass or iron knocker, being fixed to any dwelling-house, out-house, coach-house, stable, or other building used or occupied with such dwelling house, or thereunto belonging, or to any other building, or fixed in any garden, orchard, court-yard, fence or outlet belonging to any dwelling-house or other building, or any locks or hinges of gates or parks, or other enclosures, shall be deemed to be guilty of felony, and liable to the pains of felony; and the court, &c. shall have power to transport such felon for

21 Geo. 3. c. 68.
Eng.

*Felony to steal,
&c. any copper,
&c. fixed to any
dwelling-house,
&c.*

Punishment.

*Accessaries how
punished.*

5 Geo. 2. c. 10.
Ir.

*Analogous sta-
tute in Ireland.*

for 7 years; and every person who shall be aiding, abetting, or assisting in stealing, &c. any such lead,* &c. shall be liable to the same punishment as if he had stolen the same.

By the 25 Geo. 2. c. 10. Eng. every person who shall unlawfully break, or by force enter into any mine, or wad-hole of wad or black cawke commonly called "black lead," or into any pit, shaft, adit or vein of wad, &c. with an intent to take and carry away from thence any wad, &c.; or shall unlawfully from thence take and carry away any wad, &c. although such mine, &c. be not actually broke, or by force entered into by such offender; or shall aid, abet, assist, hire, or command any person to commit such offence; shall be guilty of felony; and it shall be lawful for the court or judge before whom such offender shall be convicted, to order him to be committed to the prison or gaol of said county, or to some house of correction within the same county, for a time not exceeding a year, to be kept to hard labour, and to be publicly whipped by the common hangman, or by the master of such house of correction, at such times and places, and in such manner as such court, &c. shall think proper; or it shall be lawful for such court, &c. (or any other subsequent court held at the same place with the like authority as the former,) to order such offender to be transported for a term not exceeding 7 years, as such court, &c. shall think most proper; and thereupon judgment shall be given that such person shall be committed and whipped, or transported accordingly: And if transportation shall be directed, the same shall be executed as in cases of other felons; and if any person so committed or transported shall voluntarily escape or break prison, or return from transportation before the expiration of the time for which he shall be ordered to be transported, he shall suffer death as a felon without benefit of clergy, and shall be tried for such felony in the county where he so escaped, or where he shall be apprehended

Felony to enter with force into mines of black lead, or to take black lead therefrom.

25 Geo. 2. c. 10. s. 1. Eng.

Punishment.

* "Brass or iron knockers" and "locks or hinges of gates or parks, &c." omitted in this latter member of this clause.

s. 2.

*Punishment of
persons convicted
escaping or
breaking prison,
&c.*

hended. And by s. 2. if any person shall be convicted or attainted of any of the offences aforesaid, and shall voluntarily escape, break prison, or return from transportation as aforesaid, and shall be apprehended in any other county or city different from that wherein the offence was committed, the clerk of assize, or clerk of the peace, for the county or city where such conviction or attainder was had, shall, at the request of the prosecutor, or of any other on his majesty's behalf, certify the same by a transcript in a few words, containing the effect and tenor of such conviction or attainder; (for which certificate 2s. 6d. shall be paid;) and such certificate being produced in court shall be sufficient proof of such former conviction, &c. By s. 3. every person who shall

s. 3.

*Persons knowingly
buying or
receiving such
black lead, how
punished.*

buy or receive any wad or black cawke, commonly called "black lead," knowing the same to be so unlawfully taken and carried away, shall be guilty of felony, and be liable to all the pains which persons are subject to for buying or receiving any goods feloniously taken or stolen, knowing them to have been stolen. No statute similar to this has been passed in Ireland.

*Embezzlement
of records.*

8 Hen. 6. c. 12.
E. & I.

The 8 Hen. 6. c. 12. E. & I. which relates to the embezzlement of records, has been already stated, *ante* p. 581. under the head of offences against public justice.

*Felony to steal
exchequer orders
and certain
other choses in
action.*

2 Geo. 2. c. 25.
s. 3. Eng.

As to choses in action: the 2 Geo. 2. c. 25. Eng. (the other clauses of which are stated, *ante* p. 608-9.) enacts (s. 3.) that if any person shall steal or take by robbery any exchequer orders or tallies, or other orders, entitling any other person to any annuity or share in any parliamentary fund, or any exchequer bills, bank notes, South-Sea bonds, East-India Bonds, dividend-warrants of the bank, South-Sea company, East-India company, or other company, society, or corporation; bills of exchange, navy bills or debentures, goldsmiths notes for payment of money, being the property of any other person or of any corporation, notwithstanding any of said particulars are termed in law a chose in action, it shall be deemed a felony, of the same nature. and in the same degree, and with or without the benefit of clergy, as if
the

the offender had stolen or taken by robbery any other goods of like value with the money due on such orders, &c. or secured thereby, and remaining unsatisfied; and such offender shall suffer such punishment as he should have done if he had stolen other goods of the like value with the monies due on such orders, &c. or secured thereby, and remaining unsatisfied. To this head also is to be referred the clause of the 7 Geo. 3. c. 50. Eng. which enacts, (s. 2.) that if any person whatsoever shall rob any mail, in which letters are sent or conveyed by the post, of any letter, packet, bag, or mail of letters; or shall steal and take from out of any such mail, or out of any bag of letters, sent or conveyed by the post, or from any post-office or house or place for the receipt or delivery of letters or packets sent by the post, any letter or packet, although such robbery, stealing, or taking, shall not appear, or be proved, to be a taking from the person, or upon the king's highway, or to be a robbery committed in any dwelling-house, or any coach-house, stable, barn, or out-house belonging to a dwelling-house; and although it should not appear that any person was put in fear by such robbery, &c.; yet such offender shall be guilty of felony without benefit of clergy. And the 42 Geo. 3. c. 81. G. B. recites the 7 Geo. 3. c. 50. s. 3. *supra*, and that by reason of the difficulty and frequent impossibility of discovering and proving the particular county, &c. within which said offences have been committed, divers persons have escaped punishment; and therefore enacts, that said felonies and offences shall and may be alleged and laid, tried and determined, if committed in England, either in the county wherein such felony or offence shall be committed, or wherein such offender shall be apprehended, and if committed in Scotland either in the judiciary court of Edinburgh, or in the court of the circuit of that part of the united kingdom within which circuit such felony or offence shall be committed, or such offender shall be apprehended. And by the 28 Geo. 3. c. 13. s. 4. Ir. if any person, whether employed or not employed in any business relating to the post-office,

shall

7 Geo. 3. c. 50.
s. 2. Eng.

*Stealing, &c.
letters, out of
any mail, a ca-
pital felony.*

42 Geo. 3. c. 81.
s. 3. G. B.

*Where such
offences may be
tried*

28 Geo. 3. c. 13.
s. 4. Ir.

*Stealing, &c.
letters, &c. out
of mail in Ire-
land, a capital
felony.*

shall rob, or wilfully stop or detain with intent to rob, open, search, or impede the progress of any express, letter, or packet, sent by express, or by any post-boy, post-rider, or express-rider, or shall steal or feloniously take from any such post-boy, &c. any packet, letter, article, or thing, with which he shall be entrusted, although such robbing, stealing, or taking, shall not appear or be proved to be a taking from the person, or upon the king's highway, or to be a robbery or felony committed in any dwelling-house, or any coach-house, stable, barn, or any out-house belonging to a dwelling-house, and although it should not appear or be proved that any person were put in fear by such robbery, &c.; [*or if any post-boy, post-rider, or express-rider, shall wilfully rob or open, embezzle, secrete, or destroy any express, letter, or packet, with which he shall be entrusted; or shall steal or feloniously take thereout, or wilfully permit or suffer any other person to steal or take thereout, any letter, packet, or thing;] or if any other person shall, with or without the knowledge or privity of such post-boy, &c. steal or feloniously take from such post-boy, &c. any letter, packet, or thing; or if any person shall receive any such letter, &c. which shall have been stolen or feloniously taken as aforesaid, knowing the same to have been stolen, &c. every such offender shall be guilty of felony without benefit of clergy. And by s. 5. every person receiving any such letter, packet, or thing, knowing the same to have been stolen or feloniously taken, shall be deemed a principal felon, and shall be triable although the person who actually committed such theft or robbery, shall not have been previously apprehended, tried, or convicted. And the 38 Geo. 3. c. 47. s. 2. Ir. (which has been in part stated, *ante* p. 928.) also enacts, that if any person employed or not employed in any business relating to the post-office, shall rob (or wilfully stop or detain, with intent to rob, search, or impede the progress thereof) any mail, or bag in

*Receivers also
guilty capitally.*

38 Geo. 3. c. 47.
s. 2. Ir.

Similar clause.

* The other clauses of the several statutes which relate to embezzlements by persons employed in the business of the post-office will be found, *ante* p. 925. to 931.

in which letters are sent or conveyed by the post, or from any post-boy, post-rider, or letter-carrier, employed in any business relating to the post-office, or from out of any post-office, or house or place for the receipt or delivery of letters and packets sent by the post; or from out of any coach, cart, or other conveyance, by which letters are sent by the post, any letter, packet, bag or mail of letters, although such robbery, stealing, or taking, shall not appear or be proved to be a taking from the person, or upon the king's highway, or to be a robbery committed in any dwelling-house, or any coach-house, stable, barn, or any out-house belonging to a dwelling-house, and although it should not appear or be proved that any person was put in fear by such robbery, &c.; or if any person shall be aiding or assisting in the committing of any of said offences; or if any person shall receive any such mail or bag of letters, or any letter or packet, or any article or thing therein contained, or which shall have been feloniously taken out therefrom, or which shall have been otherwise feloniously taken as aforesaid, knowing the same to have been stolen or feloniously taken; such offender shall be guilty of felony without benefit of clergy. The 23 & 24 Geo. 3. c. 17. s. 30. Ir. (as amended by the 38 Geo. 3. c. 47. s. 1. Ir.) further enacts, that no person shall wilfully, willingly, or knowingly, open, embezzle, or destroy, or cause, procure, or permit or suffer to be opened, &c. any letter or packet after the same shall be delivered into the general or other post-office, or into the hands of any person employed for the receiving or carrying post letters, and before delivery to the persons to whom directed, or for their use, except by an express warrant in writing, under the hand and seal of the lord lieutenant; or except in cases where the party to whom such letter or packet shall be directed, or who is hereby chargeable with the payment of the postage thereof, shall refuse or neglect to pay the same; and except such letters or packets as shall be returned for want of true directions, and where the party, to whom the same is or are directed, cannot be found; and every person offending herein

23&24 Geo. 3.
c. 17. s. 30. Ir.

*Persons opening
or embezzling
letters, &c. af-
ter they are de-
livered into the
post office, &c.
guilty capitally.*

* By 38 Geo. 3.
c. 47. s. 1. Ir.

herein, [*or who shall be aiding or assisting in committing any of said offences,] shall be guilty of felony without benefit of clergy.

*Stealing pump
from vessel in
distress, or do-
ing any thing
tending to the
loss of such ves-
sel, a capital
felony.*

12 Ann. st. 2.
c. 18. s. 5. Eng.

The statutes which respect the king's right, by virtue of his prerogative, to wreck of the sea, have been already referred to (vol. 1. p. 188-9.) but it was reserved for this place to state the provisions of the several statutes, English and Irish, which were framed for the prevention of wrecks, and the preservation of the property in them.

By the 12 Ann. st. 2. c. 18. s. 5. Eng. if any person shall make, or be assisting in making any hole in the bottom, side, or any other part of any ship or vessel in distress, (*viz.* in danger of being stranded or run on shore, or being stranded or run on shore,) or shall steal any pump belonging to any vessel so in distress, or shall be aiding or assisting in the stealing such pump, or shall wilfully do any thing tending to the immediate loss or destruction of such ship, &c. such person shall be guilty of felony without benefit of clergy. And by s. 4. in case any goods shall be found upon any person that were stolen

s. 4.

*Persons secret-
ing the goods of
vessels wrecked,
&c. how pun-
ished.*

or carried off from any such vessel so in distress, he, on whom such goods shall be found, shall immediately, on demand, deliver the same to the owner thereof, or to such person by such owner authorized to receive the same, or in default thereof, shall be liable to pay treble the value of such goods, to be recovered in an action by such owner. And the 26 Geo. 2. c. 19. Eng. further enacts (s. 1.) that if any person shall plunder, steal, take away or destroy any goods or merchandize, or other ef-

26 Geo. 2. c. 19.
s. 1. Eng.

*Stealing any
goods, &c. from
vessels in dis-
tress, or prevent-
ing the escape of
any person
therefrom, or
putting out false
lights, a capital
felony.*

fects, from or belonging to any ship or vessel which shall be in distress, or which shall be wrecked, lost, stranded or cast on shore, in any part of his majesty's dominions, (whether any living creature be on board such vessel or not,) or any of the furniture, tackle, apparel, provision, or part of such vessel; or shall beat or wound with intent to kill or destroy, or shall otherwise wilfully obstruct the escape of any person endeavouring to save his life from such vessel, or the wreck thereof; or if any person shall put out any false light with intention to bring any vessel into danger; such offender shall be guilty

guilty of felony without benefit of clergy. Provided (s. 2.) that when goods or effects of small value shall be stranded, lost or cast on shore, and shall be stolen without circumstances of cruelty, outrage, or violence; then any person may prosecute such offence by way of indictment for petit larceny; and the offender shall suffer as in cases of petit larceny. By s. 3. it shall be lawful for any justice of peace, upon information on oath of any part of the cargo or effects belonging to any vessel lost or stranded upon or near the coasts aforesaid, being unlawfully carried away or concealed in any house, barn, or other place, or of some reasonable cause of suspicion thereof, to issue his warrant for the searching of such house, &c. as in other cases of stolen goods: and if the same shall be found in such house, &c. or upon or in the custody or possession of any person not legally authorized or entitled to keep or withhold the same; and the owner or occupier of such house, &c. or the person upon whom or in whose custody, &c. the same shall be found, shall not immediately, upon demand, deliver the same to the lawful owner thereof, or to such other person as shall be lawfully authorized to demand the same; or shall not give a good account to the satisfaction of such justice how he came by or became possessed thereof; such justice shall, upon proof of such refusal, commit the said offender to the common gaol for 6 months, or until he shall have paid to such lawful owner, or to the person lawfully authorized to receive the same, treble the value of the goods so by him unlawfully detained. And by s. 4. if any person shall offer or expose to sale any goods belonging to any vessel lost, stranded, or cast on shore as aforesaid, and unlawfully taken away, or reasonably suspected so to have been; it shall be lawful for the person to whom the same shall be so offered for sale, or any officer of the customs or excise, or any constable or other peace officer, to stop, take and seize, such effects; and he shall, with all convenient speed, carry the same, or give notice of such seizure, to some justice of peace; and if the person who shall have offered such goods to sale, or some other person on his behalf, shall

s. 2.

Proviso as to goods of small value.

s. 3.

*Jurisdiction of justices of peace in respect to searching for part of cargo.**Persons with whom any part found, how dealt with.*

s. 4.

Who may seize such goods exposed to sale.

not

*Proceeding upon
such seizure.*

s. 8.

*Duty of clerk of
the peace in re-
spect to prose-
cuting such
offenders.*

§ "Grand jury
at the assizes,"
23 & 24 Geo. 3.
c. 48. Ir.

not appear before said justice within 10 days next after such seizure, and make out, to the satisfaction of such justice, the property of said goods to be in him, or in the person by whom he was employed to sell the same; then said goods shall, by order of said justice, be forthwith delivered over to or for the use of the rightful owner, upon payment of a reasonable reward for such seizure, (to be ascertained by such justice) to the person who seized the same; and such justice shall commit the person who shall have so offered or exposed the said goods to sale, to the common gaol for 6 months, or until he shall have paid to the lawful owner, or to the person lawfully authorized to receive the same, treble the value of the said goods so unlawfully offered to sale. And by s. 8. if oath shall be made before any magistrate empowered to take the same, of any such plunder or theft, and the examination in writing thereupon shall be delivered to the [*clerk of the peace] of the county, &c. wherein such fact shall be committed, or to his deputy; or if oath shall be made before any such magistrate of the breaking any ship contrary to the [†12 Ann. st. 2. c. 18.] *supra*, and the examination in writing thereupon taken shall be delivered to such [*clerk of the peace] or his deputy, then such [*clerk of the peace] shall cause the offender to be forthwith prosecuted for the same, either in the county where the fact shall be committed, [†or in any county next adjoining; in which adjoining county any indictment may be laid by any other prosecutor; and if the fact be committed in Wales, then the prosecution shall be carried on in the next adjoining English county;] and the necessary charges of such prosecutions by the [*clerk of the peace] shall be paid by the treasurer of the county, &c. where the fact shall be committed, to such amount as the [§justices of peace in their general or quarter sessions] shall order; and if such [*clerk of the peace] shall neglect or refuse to carry on such prosecution in due manner, he shall forfeit £100.

to

* "Clerk of the crown." in 23 & 24 Geo. 3. c. 48. Ir.

† The 23 & 24 Geo. 3. c. 48. Ir. here refers to the 4 Geo. 1. c. 4. Ir.

‡ No such clause as this is contained in the 23 & 24 Geo. 3. c. 48. Ir.

to any person who shall sue by action of debt, &c. in any court of record at [*Westminster.]

* "Dublin," in 23 & 24 Geo. 3. c. 48. Ir.

In Ireland the 4 Geo. 1. c. 4. Ir. contains clauses corresponding to those of the 12 Ann. st. 2. c. 18. s. 4 & 5. Eng. *ante* p. 958. but further enacts (s. 6.) that if any person shall put forth any false or treacherous lanterns, lights or fires, with intention to subject any ship or vessel to danger or shipwreck, he shall be guilty of felony without benefit of clergy. And the 23 & 24 Geo.

Offences in respect to wrecks, how punished in Ireland.

4 Geo. 1. c. 4. s. 4. 5 & 6. Ir. 23 & 24 Geo. 3. c. 48. s. 1. 2. 3. & 4. Ir.

3. c. 48. Ir. has followed the 26 Geo. 2. c. 19. s. 1. 2. 3. 4 & 8. Eng. *supra*, with such deviations only as are noted in the margin. And the 15 & 16 Geo. 3. c. 33. Ir. fur-

15 & 16 Geo. 3. c. 33. s. 1. Ir.

ther enacts, that every person who shall get or have in his custody or possession, any part of any ship or vessel in distress, or stranded, wrecked, or driven on shore, or of the tackle, furniture, sails, ammunition or cargo thereof, or of the goods belonging to such vessel, knowing the same so to be, shall, within 3 days next after

Punishment for not giving notice of any part of any wreck or cargo in the possession of any person.

such person shall knowingly have got or had the same in his custody, &c. give notice to a justice of peace of the county in which such person shall be resident, or to the next residing officer of his majesty's revenue, that he hath part of such vessel, or of the tackle, &c. or goods, in his custody, &c. and the place where the same shall be deposited at the time of giving such notice; upon pain of suffering imprisonment for such time not exceeding 6 months, as the judge of assize before whom such person shall be convicted shall think fit. And by

s. 2.

s. 2. every person who shall so have any part of such vessel, or of the tackle, &c. or goods, in his custody, &c. shall deliver the same within 48 hours after demand, and without wilful embezzlement, to any justice of peace of the county where the same shall be, or to any officer of the revenue who shall demand the same; and every person who shall neglect, refuse, or omit to deliver the same as aforesaid, shall be deemed to have stolen the same, and shall be adjudged guilty of felony: and it shall be sufficient in any indictment for any offence against this act, to aver and prove that such parts of any vessel, or the tackle, &c. had been on board or did be-

Felony to secrete any part of wreck or cargo.

long

s. 3.

Act proclaimed.

long to such vessel, without averring or proving that the property thereof was in any particular person. By s. 3. this act shall in every year be publicly read in full market, on the market day next preceding Michaelmas day, in the public market-place of every market-town in this kingdom, situate within 5 miles of the sea, by the chief magistrate of every such market-town having a chief magistrate, or by some person appointed by him, and, in places where there is not a chief magistrate, by the clerk of the market, or by some person appointed by him; and every chief magistrate or clerk, who shall neglect to read or have the same read as aforesaid, shall forfeit £5. to be recovered by civil bill, by the person who shall first sue for the same.

*Duty of sheriffs,
&c. upon information of vessels
being in distress.*

12 Ann. st. 2.
c. 18. s. 1. Eng.

* "This kingdom" in
4 Geo. 1. c. 4.
Ir.

The clauses of these statutes respecting salvage or compensation for preserving ships in distress, and their cargoes, may be here also stated. By the 12 Ann. st. 2. c. 18. s. 1. Eng. the sheriffs, justices of peace of every county, or county of a city or town, and all mayors, bailiffs, and other head officers of corporations and port-towns near to the sea, and all constables, head-boroughs, tithing-men, and officers of the customs in all such places, shall, upon application made to any of them, by or on the behalf of any commander or chief officer of any ship or vessel of any of her majesty's subjects, or others, being in danger of being stranded or run on shore, shall command the constables of the several ports within [*her majesty's dominions,] nearest to the sea coasts where any such vessel shall be in danger as aforesaid, to summon and call together as many men as shall be thought necessary to the assistance and for the preservation of such vessel in distress, and cargo; and if there be any man of war or merchant-ship belonging to her majesty, or any of her subjects, riding at anchor near the place where such vessel is in distress or danger, the officers of the customs, and constables above mentioned, or any of them, shall demand of the superior officers of such ship, &c. riding at anchor, assistance by their boats, and such hands as they can conveniently spare for the said service and preservation of the said vessel; and

and in case such superior officer shall refuse or neglect to give such assistance, he shall forfeit £100. to be recovered by the superior officer of the ship, &c. so in distress, together with costs of suit, in any court of record, by action of debt, &c. And by s. 2. (as amended by the 26 Geo. 2. c. 19. s. 6 & 7. Eng.) the justice of peace, mayor, bailiff, collector of the customs, or chief constable, who shall be nearest to the place where any ship, goods, or effects, shall be stranded or cast away, shall forthwith give public notice for a meeting, to be held as soon as possible, of the sheriff or his deputy, the justices of peace, mayors or other chief magistrates of towns corporate, coroners and commissioners of the land-tax, or any 5 or more of them, who shall give aid in the execution of these acts, and employ proper persons for the saving of ships in distress, and such ships, &c. as shall be stranded or cast away; and also examine persons upon oath touching the same, or the salvage thereof, and adjust the *quantum* of such salvage, and distribute the same amongst the persons concerned in such salvage, in case of disagreement amongst the parties, or the said persons; and every such sheriff, &c. attending and acting at such meeting, shall be paid 4s. a day for his expenses in such attendance, out of the goods and effects saved by their care or direction. Provided that if the charges and rewards for salvage directed to be paid by these acts shall not be fully paid, or sufficient security given for the same, within 40 days next after such services performed, then it shall be lawful for the officer of the customs concerned in such salvage to borrow or raise so much money as shall be sufficient to pay such charges, &c. or any part thereof then remaining unpaid, or not secured as aforesaid, by or upon a bill or bills of sale, under his hand and seal, of the ship, &c. or cargo saved, or such part thereof as shall be sufficient, redeemable nevertheless upon payment of the principal sum so borrowed, and interest for the same after the rate of £4. *per cent. per annum.** And by the 26 Geo. 2. c. 19.

s. 2.

(26 Geo. 2. c. 19. s. 6 & 7. Eng.)

Quantum of salvage, how adjusted.

Sheriffs, &c. how paid for their trouble.

Salvage money how raised if not paid.

s. 5.

* By the 12 Ann. st. 2. c. 18. s. 2. Eng. the *quantum* of salvage (if not paid within 30 days after the service performed) was to be adjusted by 3 neighbouring justices of peace nominated by the commander of

26 Geo. 2. c. 19.
s. 5. Eng.

*Persons though
not employed by
the master, &c.
entitled to sal-
vage.*

s. 9.

*Who shall be
the proper offi-
cers for execut-
ing these acts.*

12 Ann. st. 2.
c. 18. s. 3. Eng.

*Penalty for en-
tering vessel in
distress without
leave.*

s. 5. Eng. if any person not employed by the master, mariners, or owners, or other persons lawfully authorized, in the salvage of any ship or vessel, or the cargo or provision thereof, shall, in the absence of persons so employed or authorized, save any such vessel, goods, or effects, and cause the same to be carried for the benefit of the owners or proprietors into port, or to any near adjoining custom-house, or other place of safe custody, immediately giving notice thereof to some justice of peace, magistrate, or custom-house or excise officer; or shall discover to any such magistrate, &c. where any such goods, &c. are wrongfully bought, sold, or concealed; such person shall be entitled to a reasonable reward for such services, to be paid by the masters or owners of such vessels or goods, and to be adjusted in case of disagreement about the *quantum*, in like manner as the salvage is to be adjusted and paid by virtue of the 12 Ann. st. 2. c. 18. Eng. And by s. 9. the commissioners of the land tax, the deputy sheriff, the coroner, and the officers of excise in each county, &c. shall be proper officers for putting in execution these acts, together with those above named.† And by the 12 Ann. st. 2. c. 18. s. 3. Eng. if any person besides those empowered by

of the ship, or owner of the goods, or merchant interested therein, and officer of the customs, or his deputy; such adjustments to be recoverable by action in any court of record: And this clause also provides, that if no person shall appear to make his claim to any of the goods that shall be saved, then the chief officer of the customs of the nearest port to the place where the said ship was so in distress, shall apply to 3 of the nearest justices of peace, who shall put him, or some other responsible person, in possession of said goods, such justices taking an account in writing of said goods, to be signed by such officer of the customs; and if said goods shall not be legally claimed within 12 months next ensuing, by the rightful owner thereof, then public sale shall be made thereof, and if perishable goods forthwith to be sold, and after all charges deducted, the residue of the monies arising by such sale, with a fair account of the whole, shall be transmitted to the exchequer, there to remain for the benefit of the owner, who upon affidavit, or other proof made of his right thereto, to the satisfaction of one of the barons, shall upon his order receive the same.

† The proceedings relative to the adjusting salvage, within the jurisdiction of the cinque ports, &c. are regulated by the 26 Geo. 2. c. 19. s. 10. Eng. and 48 Geo. 3. c. 130. G. B.

by the officer of the customs, or his deputy, and the constables as aforesaid, shall enter or endeavour to enter on board any such vessel so in distress, without the leave or consent of the commander, or other superior officer of said ship, or of the officer of customs, &c. or of some or one of them employed for the service and preservation of the said vessel; or in case any person shall molest him or any of them in the saving of said vessel, &c. or shall endeavour to impede or hinder the saving of any such ship, &c. or when any such goods are saved, shall take out or deface the marks of any such goods, before the same shall be taken down in a book for that purpose provided by the commander or ruling officer, and the first officer of the customs, such person shall, within 20 days, make double satisfaction to the party grieved, at the discretion of the 2 next justices of peace, or, in default thereof, shall by such justices of peace be sent to the next house of correction, to be employed in hard labour for 12 months: and it shall be lawful for any commander or superior officer of said vessel so in distress, or for the said officer of customs, or constables on board the same vessel, to repel by force any such person as shall without such leave, &c. press on board the said vessel in distress, and thereby molest them in the preservation of said vessel. But (by the 26 Geo. 2. c. 19. s. 11. Eng.) if any sheriff or his deputy, justice of peace, mayor, or other magistrate, coroner, [*lord of a manor, commissioner of the land-tax,] [†chief] constable or petty constable, or other peace officer, or any custom-house or excise officer, or other person lawfully authorized, shall be assaulted, beaten and wounded, for or on account of the exercise of his duty, in or concerning the salvage or preservation of any vessel in distress, or of any vessel, goods or effects, stranded, wrecked, or cast on shore, or lying under water, [‡in any of his majesty's dominions,] then any person so assaulting, &c. shall, upon trial and conviction, by indictment at the

Or impeding the saving of the vessel.

Or defacing the marks of goods.

26 Geo. 2. c. 19. s. 11. Eng.

Punishment for assaulting officers in the exercise of their salvage duty.

* not in 23 & 24 Geo. 3. c. 48. Ir.

† "high" in 23 & 24 Geo. 3. c. 48. Ir.

VOL. II.

3 R

assizes,

‡ "In or near any coast in this kingdom." in 23 & 24 Geo. 3. c. 48. Ir.

assizes, or general gaol delivery, [*or at the general or quarter sessions] for the county, &c. where such offence shall be committed, [†be transported for 7 years, and shall be subject to such subsequent punishment, in case of return before that time, as other persons under sentence of transportation are subject to.] And by s. 12. it shall be lawful for any justice of peace, in case of need, and in the absence of the high sheriff, to take sufficient power of the county to repress all unjust violence, and duly to enforce the execution of this act. And by s. 13. to prevent confusion amongst persons assembled to save any ship, &c. goods, &c. all persons so assembled shall conform in the first place to the orders of the master or other officers or owners, or other persons employed by them; and for want of their presence or directions then in the next place to the orders of any officer of the customs; then of any officer of the excise; then of the sheriff or his deputy; then of any justice of peace; then of the mayor or chief magistrate of any corporation; then of the coroner; [‡then of any commissioners of the land-tax;] then of any [chief] constable; then of any petty constable or other peace officers: And any person acting knowingly [§and] wilfully, contrary to such orders, shall forfeit any sum not exceeding £5. to be levied by warrant of a justice of peace; and in case of non-payment, the offender shall be committed to the house of correction for any time not exceeding 3 months. And by s. 15. the officer of the customs who shall act in the preserving any vessel in distress, or the cargo thereof, shall, as soon as conveniently may be, procure all persons belonging to said ship, and others who can give any account thereof, or of the cargo thereof, to be examined upon oath before a justice of peace, as to the name or description of said vessel, and the names of the master, commander, or chief officer and owners

s. 12.

*Justices of peace
may raise posse
comitatus.*

s. 13.

*Subordination of
salvage officers.*

† not in 23 &
24 Geo. 3. c. 48.
Ir.

§ “or” in 23 &
24 Geo. 3. c. 48.
Ir.

s. 15.

*Examination
before a justice
as to particular
description of
the vessel and
cargo.*

* These words not in 23 & 24 Geo. 3. c. 48. Ir.

† “Suffer imprisonment at the discretion of the judge, for any term not exceeding 3 years, in the common gaol of such county or place,” in the 23 & 24 Geo. 3. c. 48. Ir.

owner thereof, and of the owner of said cargo, and of the ports or places from or to which the said vessel was bound, and the occasion of the said ship's distress; which examination the said justices shall take down in writing, and deliver a true copy thereof, together with a copy of the said account of the goods, to the said officer of the customs, who shall forthwith transmit the same to the [*secretary of the admiralty,] who shall publish in the next [†London] gazette, so much thereof as shall be necessary for the information of the persons interested or concerned therein. By s. 16. the 12 Ann. st. 2. c. 18. so far as not altered by this act, is confirmed. By s. 18. this act is declared not to extend to Scotland. And by the 12 Ann. st. 2. c. 18. s. 7. if any officer of the customs, or his deputy, shall, by fraud or wilful neglect, abuse the trust hereby reposed in him, and shall be convicted thereof in due form of law, such officer, &c. shall forfeit treble damages to the party grieved, to be recovered by suit in any court of record, and shall from thenceforth be rendered incapable of the same, or any other employment relating to the said customs. And by s. 6. if any suit shall be commenced against any person for any thing done in pursuance of this act, he may plead the general issue, and shall recover full costs of nonsuit, discontinuance, verdict, or judgment upon demurrer. And this statute (s. 9.) (as also the 26 Geo. 2. c. 19. s. 14. Eng.) provides, that nothing herein shall prejudice the king, or any deriving under him, or any patentee or grantee of the crown, or any lord of any manor, or other person, in relation to any right which he may claim to any wreck, or any goods which shall be *flotsam, jetsam, or lagan*. The 12 Ann. st. 2. c. 18. Eng. is by s. 8. required to be read, 4 times in the year, in all parish churches and chapels of every sea-port town, and upon the sea coast, upon the Sundays next before Michaelmas-day, Christmas-day, Lady-day, and Midsummer-day, in the morning, immediately after prayers, and before the sermon. The 48 Geo. 3. c. 130. s. 21. G. B.

Duty of officer of customs thereon.

† "Dublin" in 23 & 24 Geo. 3. c. 48. Ir.

s. 16.

Proviso.

s. 18.

Scotland excepted.

12 Ann. st. 2. c. 18. s. 7. Eng.

Penalty for default of officer of customs.

s. 6.

Persons acting under this law, protected against actions.

s. 9.

(26 Geo. 2. c. 19. s. 14. Eng.)

Saving for the rights of the king, &c.

s. 8.

Act proclaimed.

48 Geo. 3. c. 130 s. 21. G. B.

3 R 2

recites

* "Clerk of the privy council in Dublin" in 23 & 24 Geo. 3. c. 48. Ir.

Salvors acting
under authority
of commander,
&c. of vessel, en-
titled to salvage,
as if acting un-
der officer of
customs.

s. 22.

Salvage in such
cases, how ad-
justed.

recites the 12 Ann. st. 2. c. 18. Eng. *supra*, (without any reference to the 26 Geo. 2. c. 19. *supra*.) and enacts, that the means which in virtue of the 12 Ann. subsist, and may be by law applied for adjusting and recovering of the *quantum* of the monies or gratuities to be paid to the several persons acting or employed in the salvage of any vessel, or goods, in cases where application shall have been first made, pursuant to the 12 Ann. to officers of the customs, or other officers therein, in that behalf mentioned, and assistance shall have been thereupon rendered in pursuance of the 12 Ann. shall be applicable in like manner in cases where the salvors shall have acted under and by authority of the commander or other superior officers, mariners, or owners of any vessel in distress, although no such application shall have been made to, nor any authority or assistance derived from any officers of the customs, or other officer in the 12 Ann. mentioned; and upon payment, or tender and refusal, of the *quantum* of monies or gratuities to be paid to the several persons who shall have acted or been employed in such salvage, or in case such payment or tender cannot be made, or security being given for the due payment thereof to the satisfaction of the justices who shall have adjusted such *quantum* of gratuities, it shall not be lawful for any officer of the customs, or other person having the possession of such vessel or goods, any longer to retain the possession or custody of the same, or any part thereof, by reason of any claim or right to a compensation or gratuity for such salvage, or for having acted or been employed therein. Provided (s. 22.) that where the salvors shall have acted without application made to and without any authority or assistance derived from any officer of the customs, or other officer in the 12 Ann. mentioned, and the commander or other superior officer, mariners, or owners of such vessel so saved, or the merchant or other person whose goods shall be so saved, or their agents as aforesaid, shall disagree with such salvors, touching the *quantum* of the monies or gratuity deserved by any person so employed as aforesaid, it shall be lawful for the commander

mander of such vessel, or the owner of the goods, or merchant interested therein, or their agents, and for such salvors as aforesaid, to nominate 3 of the neighbouring justices of peace to adjust the *quantum* of the monies or gratuities to be paid to such salvors; and in case the parties shall not agree in such nomination, then on the application of any of the parties to any neighbouring justice of peace, the justice so applied to shall nominate 2 other neighbouring justices of peace; and such 3 neighbouring justices shall adjust the *quantum* of the monies and gratuities to be paid to each of such salvors who shall so disagree with such master, &c.

With respect to the mode of adjusting salvage in Ireland: The 4 Geo. 1. c. 4. Ir. contains a clause corresponding to that of the 12 Ann. st. 2. c. 18. s. 1. Eng. *ante* p. 962. And by s. 2. (which is nearly corresponding to s. 2. of the 12 Ann.) provides, that the collectors of the customs, and the master or commanding officer of any ships or vessels, and all others who shall be employed in the preserving any such vessel in distress, or the cargo, shall, within 30 days after the service performed, be paid a reasonable reward for the same, by the commander, master, or other superior officer, mariners, or owners of the vessel so in distress, or by the person or merchant whose vessel or goods shall be so saved; and in default thereof, the said vessel, &c. shall remain in the custody of such officer of the customs, or his deputy, until such time that all charges shall be paid, and until the said officer of the customs, or his deputy, and the said master, or other officer of the vessel, and all others so employed as aforesaid, shall be reasonably gratified for their assistance and trouble, or good security given for that purpose, to the satisfaction of the several parties that are to receive the same; and in case after such salvage the commander or other superior officer, mariners, or owners of such vessel so saved, or the person or merchant whose goods shall be so saved, shall disagree with the officer of the customs, or his deputy, touching the monies deserved by any of the persons so employed,

it

*Sheriffs, &c.
how to proceed
on information
of ships in dis-
tress on coast of
Ireland.*

4 Geo. 1. c. 4.
s. 1. Ir.
s. 2.

*Quantum of
salvage how ad-
justed in Ire-
land.*

it shall be lawful for the commander of such vessel so saved, or the owner of the goods, or the person or merchant interested therein, and also for the officer of the customs, or his deputy, to nominate 2 or more justices of peace, who shall thereupon adjust the *quantum* of the monies or gratuities to be paid to the several persons acting or being employed in the salvage of the said vessel, and such adjustments shall be binding to all parties; and the commander of such ship, &c. or the owner of the goods, or the person or merchant interested therein, shall pay down to the officer the monies so allotted by the justices, or give good security for the same before said goods be delivered; and if no person shall make his claim to all or any the goods saved, then the chief officer of the customs of the nearest port to the place where the said ship, &c. was so in distress, shall apply to 2 or more of the nearest justices of peace, who shall put him or some other responsible person in possession of said goods; such justices of peace taking an account in writing of the said goods, to be signed by such officer of the customs; and if said goods shall not be legally claimed, within 12 months next ensuing, by the rightful owner, then public sale shall be made thereof; and if any of said goods be perishable, then such goods shall forthwith be sold, and after all charges deducted the residue of such monies arising by such sale, with a fair account of the whole, shall be transmitted to the exchequer, there to remain for the benefit of the rightful owner when appearing; who, upon affidavit or other proof made of his right or property thereto, to the satisfaction of one of the barons, shall receive the same out of said court. This statute (4 Geo. 1. c. 4. Ir.) contains also clauses corresponding to the 12 Ann. st. 2. c. 18. s. 3. s. 6. s. 7. and s. 9. *ante* p. 964-5-7. And by s. 9. in analogy to the 12 Ann. st. 2. c. 18. s. 8. Eng. *ante* p. 967. provides, that this act shall every year publicly be read in full market, on the market day next preceding Michaelmas day, in the public market-place of every market-town within 5 miles of the sea, by the mayor or chief magistrate of such market-town, or some other person by him appointed;

s. 3. 7. 8. & 10.

Clauses corresponding to

s. 3. 6. 7. & 9.
of 12 Ann. st. 2.
c. 18. Eng.

s. 9.

Act proclaimed.

pointed; or, where there is no such mayor, &c. by the clerk of the market, or some other person by him appointed; and in default thereof such mayor, chief magistrate, or clerk of the market, shall forfeit 40s. to be recovered by civil bill by the party who shall first sue for the same. But the 17 Geo. 2. c. 11. Ir. further 17 Geo. 2 c.11. s. 2. Ir. provides, (s. 2.) that if the commander, mariners, or owners of the vessel so saved, or the owner of the goods, or any person interested therein, or any person employed in such salvage, or having any interest in such adjustment, shall think himself aggrieved by such adjustment, Appeal to lord lieutenant, and council, or judges of assize, from adjustment of justices. as in 4 Geo. 1. c. 4. *supra*, it shall be lawful for such person, by petition setting forth the particular grievance he complains of in such adjustment, to appeal to the lord lieutenant, and privy council, or to the next going justices of assize for the same county, where such ship or goods, or any of them, shall be so saved, after the adjustment made by such justice, at the election of the person appealing; and the lord lieutenant and council, and such justices, may receive such appeal, and send for and examine upon oath or affirmation such witnesses as shall be thought necessary; and determine the matters contained in such petition in a summary way; and such determination shall be final. Provided (s. 3.) s. 3. that no petition of appeal to the lord lieutenant and council shall be received, unless preferred within 3 Limitation for such appeals. calendar months after such adjustment shall be made and published by such justices of peace; and such person so appealing shall, within 21 days after preferring such petition, serve or cause to be served the said officer of the customs, or his deputy, with a true copy of such petition; and in default thereof said adjustment shall be Copy of petition how served. conclusive. By s. 4. in case such petition shall be preferred to the lord lieutenant and council, notice in writing of the day to be appointed for the hearing of such appeal shall be served on the said officers of the customs, or his deputy, 31 days at least before the day appointed for such hearing, and the service of such notice shall be deemed sufficient notice to all persons employed in such salvage, or claiming any benefit in such adjustment; s. 4. and Proceedings upon such appeals to lord lieutenant and council.

and if any person concerned in such adjustment shall fail to appear on the day appointed for the hearing of such appeal, it shall be lawful for the lord lieutenant and council to proceed in such manner, and to give the person so appealing such relief, as if the persons employed in such salvage, and interested in such adjustment, had appeared and made their defence; and in case the person appealing shall fail to prosecute such appeal, or that such adjustment shall be confirmed upon the hearing of such appeal, it shall be lawful for the lord lieutenant and council to award such costs to the parties employed in such salvage, and interested in the said adjustment, as they shall think fit. And provided (s. 5.) that every person intending to appeal to such judges of assize shall, 10 days at least before the first day of the assizes at which such petition is to be preferred, serve, (or cause, &c.) the said officer of the customs, or his deputy, with a true copy of such petition; and the service of such copy shall be deemed a sufficient notice to all persons employed in such salvage, or concerned in such adjustment; and such petition shall be filed with the clerk of the judges of assize, before the hour of 12 in the forenoon of the 2nd day of the assizes at which such petition is to be preferred; and such petition shall be proceeded on, and finally heard at the same assizes, unless such justices shall see sufficient reason to adjourn the same to the next assizes; in which case the next going judges of assize shall finally determine the same: and in default of the service of such copy of such petition, or in case of such service in default of the due prosecution thereof according to this act, such adjustment by such justices of peace shall be binding, as if this act never had been made. But by s. 6. in case there are not 10 days between the making of said adjustment by said justices of peace, and the first day of the then next assizes for said county, such petition of appeal may be preferred to the next going judges of assize, after the expiration of said 10 days after such adjustment by said justices of peace. By s. 7. if the person employed in such salvage, or claiming any interest

or

s. 5. 6. & 7.

*Proceedings up-
on appeal to
judges of assize.*

or concerned in such adjustment, shall fail to appear at such assizes where the appeal is prosecuted, it shall be lawful for the judges of assize to proceed therein, and to give the person appealing such relief, as if the person interested or concerned in such adjustment had appeared and made his defence; and in case the person so appealing shall fail to prosecute said appeal, or that such adjustment shall be confirmed upon the hearing of such appeal, then it shall be lawful for such judges of assize to award such costs to the parties interested in said adjustment as they shall think proper, not exceeding £3.

By s. 8. in case any fact shall appear doubtful to such judges of assize upon such appeal, the same shall be tried by a jury to be returned immediately at the prayer of the party, or by the discretion of such judges; and the said judges of assize shall, upon the verdict to be found on such trial, make such decree as to them shall seem meet; and such decree shall be final to all parties concerned in the said adjustment. Provided (s. 9.) that in case such commander, mariners, or owners of the vessel so saved, or the owner of the goods so saved, or any person interested therein as aforesaid, or any person employed in such salvage, or having any interest in such adjustment, shall think proper to appeal as aforesaid, the said officer of the customs, or his deputy, shall, (upon such commander, &c. depositing the money allotted by said justices of peace, or giving sufficient security by 2 persons entering into an obligation payable to such officer of the customs in the penalty of double the sum in such adjustment, with condition, in case such appeal shall be brought by such commander, &c. to prosecute such appeal, and to pay such sum as shall be decreed upon such appeal, and such costs as shall be awarded thereon, or in default of such prosecution to pay the sum contained in such adjustment, and such costs as shall be awarded as aforesaid; and in case such appeal shall be brought by any of the persons employed in such salvage, or having a demand on account of such salvage, with condition to pay such sum as shall be decreed upon the hearing of such appeal; or, in

case

s. 8.

Judges of assize may have doubtful facts tried by a jury.

s. 9.

Ship and goods may be delivered to person appealing upon security to abide appeal.

case that such adjustment shall be confirmed, or that such appeal be not prosecuted, such sum as is allotted by said adjustment, deducting thereout such costs as shall be allowed upon the confirmation of such adjustment, or for the non-prosecution of such appeal;) deliver up such ship and goods to such person appealing, in the same manner as if the determination of said justices of peace had been fully complied with; any thing in the 4 Geo. 1. c. 4. to the contrary notwithstanding. And by s. 10. if upon an appeal preferred by virtue of this act, there shall be any costs awarded to such commander, mariner, or owners of the vessel so saved, or the owner of the goods so saved, or any person interested therein, such costs shall be deducted out of the adjustment so appealed from. By s. 11. in case any matter shall, upon the hearing of any appeal by the lord lieutenant and council, appear doubtful to them, it shall be lawful for them to direct an issue to be tried in any court of record at Dublin, or before the justices of assize for the county where such vessel or goods have been so saved, and upon return thereof make such decree as shall seem meet; which shall be conclusive to all parties. The 23 & 24 Geo. 3. c. 48. Ir. has followed the several clauses of the 26 Geo. 2. c. 19. s. 5. 11. 12. 13. 14 & 15. Eng. *ante*, p. 964, &c. with such deviations as are noted in the margin: and to obviate the delays in ascertaining the *quantum* of salvage in the manner prescribed by the 4 Geo. 1. c. 4. Ir. this statute enacts, (s. 12.) that when any person shall act or be employed in the preserving any vessel, goods or effects, being in danger of being stranded or run on shore, or being stranded or run on shore on any coast of this kingdom, and shall claim a reward by way of salvage for so doing, such person shall, within 14 days after such service performed, make and file his claim in writing, signed with his proper name or mark, in the excise office of the district in or nearest to which such service shall have been performed, in which claim all sums of money claimed for storage, labour, expenses, and services, and for every matter concerning such salvage, shall be separately

s. 10.

Proviso as to costs of appeal.

s. 11.

Issue to try doubtful facts upon appeal to lord lieutenant and council.

23 & 24 Geo. 3. c. 48. s. 5. 7. 8 9. 10 & 11. Ir.

Clauses corresponding to the 26 Geo. 2. c. 19. s. 5. 11. 12. 13. 14 & 15. Eng.

s. 12.

Claims of salvage to be in what form.

rately and distinctly specified, with the respective charges of each particular thereof; and the person claiming said salvage shall (if required by the owner or other person interested in such vessel or goods, or by any person by them lawfully authorized, but not otherwise) verify the truth of such claim by his affidavit or affirmation to be made at the foot of such claim, and to be sworn or affirmed before any justice of peace for the county or place in or nearest to which such service shall have been so performed; and in default of such claim being so made and filed, (or, if required, being verified as aforesaid) such person who shall act, &c. in the preserving any such vessel or goods, shall be barred from receiving or recovering any reward or salvage. And by s. 13. in case the owner or other person interested in the vessel or goods, shall abide by such claim made and filed, and shall pay to the officer of the customs the several sums so claimed as aforesaid, for the use of the several persons entitled thereto, the said officer of customs shall thereupon deliver (or cause, &c.) the said vessel or goods to the said owner, or person interested therein, or lawfully authorized to receive the same, without taking any reward or sum of money for or concerning the vessel or goods so delivered up. But by s. 14. in case the said owner or other person interested in the said vessel or goods, shall think any of the said claims to be unreasonable, and shall desire that the *quantum* of salvage, or any part thereof, shall be adjusted by 2 or more justices pursuant to the 4 Geo. 1. c. 4. the same shall accordingly be forthwith adjusted; and if the owner or other person interested in such vessel or goods, or any person in behalf of any of them, shall pay to the officer of the customs the sum so adjusted, for the use of the person entitled thereto, the said officer of customs shall thereupon deliver the said vessel or goods to the owner or other person interested therein, or lawfully authorized to receive the same, without taking any reward, &c. or sum of money for or concerning such vessel or goods so delivered up. And by s. 15. in case the owner, or person interested in the vessel or goods

And to be verified by oath or affirmation.

s. 13.

If owners, &c. abide by such claim, ship, &c. to be delivered without further charge.

s. 14.

So also of quantum of salvage paid after adjustment of justices.

s. 15.

Or ship, &c.
may be delivered
to owner on de-
positing or se-
curing the
amount of claim.

goods shall think proper to send the said vessel, &c. to sea, or otherwise to dispose thereof, without waiting the event of such adjustment, it shall be lawful for the said owner, &c. or any person on his behalf, to deposit with the officer of the customs the sums claimed for salvage, in order to abide the event of the adjustment of said justices; or, in lieu of making such deposit, to give sufficient security by 2 sufficient persons entering into a bond or obligation payable to the said officer of the customs, in the penalty of double the amount so claimed, with condition to pay to the said officer of the customs for the use of the person claiming such salvage, all such money as shall be awarded by said justices, and that upon making such deposit, or giving such security, the said officer of the customs shall immediately deliver (or cause, &c.) said vessel or goods to the owner, or other person interested therein, or lawfully authorized to receive the same, to be by him disposed of as he shall think fit. And by s. 16. if any person under colour

s. 16.

Felony to detain
possession after
owners entitled.

* Misprinted
"or."

[*of] claiming salvage, or under any other pretence, shall, contrary to this act, take or detain the possession of the vessel or goods aforesaid, or any of them, from the owner or other person interested therein, or lawfully authorized to receive the possession thereof, after said owner, &c. shall, in any of the cases herein-before mentioned, by complying with the terms of this act, have entitled himself to the possession of such vessel, &c. such offender being indicted and lawfully convicted, shall be adjudged a felon. By s. 18. the justices of peace after they shall

s. 18.

Salvage adjusted
without delay.

be nominated to adjust the *quantum* of salvage, shall immediately and diligently proceed to adjust the same.

s. 19.

Not to exceed
sums claimed.

Provided (s. 19.) that the justices shall not, in their adjustment of the salvage, exceed the sums demanded in and by the claims by this act required to be made and filed as aforesaid, such claims (if thereunto required) being also verified by oath or affirmation as herein-before directed.

s. 20.

Penalty for de-
fault of justices.

And by s. 20. if any justice of peace shall refuse to attend and adjust the said salvage, or, if attending, shall not do his duty therein, he shall forfeit £100. to be recovered with costs, by action of debt, &c. in any

court

court of record at Dublin, by any person who shall sue for the same; unless such justice shall be prevented from attending by sickness, or other sufficient cause.

By s. 21. nothing herein shall prevent any person from appealing from such adjustment of said justices, in the manner directed by the 17 Geo. 2. c. 11. And by s. 22. the 4 Geo. 1. c. 4. Ir. and 17 Geo. 2. c. 11. Ir. shall remain in full force save so far as they are altered by this act. This act further provides (s. 17.) that it shall

s. 21 & 22.

Provisoos.

s. 17.

not be lawful for any officer of the revenue, or any person concerned in claiming salvage, or any person in trust for any of them, during the distress of such vessel or goods, or after the salvage thereof, or at any time what-

No revenue officer, or claimant of salvage, shall purchase ship, &c.

soever, to purchase or agree to purchase, publicly or privately, such vessel or goods, or any part thereof; on pain of forfeiting £500. to be recovered with costs of suit, by action of debt, &c. in any court of record at Dublin; and every such purchase, or agreement, shall be void. And by s. 23. if it shall appear to such justices that any person claiming salvage shall have stolen

Penalty.

s. 23.

or pilfered any of the goods or effects, or any thing belonging to the vessel out of which salvage is claimed, such person shall be barred from his claim of salvage.

Persons pilfering barred of salvage.

The statutes which respect the offence of larceny with relation to animals *feræ naturæ*, whether four-footed game, winged game, or fish, have been already stated in a preceding chapter. But with respect to animals *domitæ naturæ*; the 1 Edw. 6. c. 12. Eng. enacts (s. 10.)

Stealing horses, &c. a capital felony.

1 Edw. 6. c. 12. s. 10. Eng.

that no person attainted or convicted of the felonious stealing of horses, geldings, or mares; or who being indicted or appealed thereof, shall be thereupon found guilty by verdict, or shall confess the same on arraignment, or will not answer directly, or shall stand mute, shall have the benefit of clergy. And because a doubt

arose whether the 1 Edw. 6. extended to the stealing a single horse, &c.; the 2 & 3 Edw. 6. c. 33. Eng. declares and enacts, that any person feloniously taking or stealing any horse, gelding, or mare, shall be put from the benefit of clergy, as though he had been indicted or appealed for felonious stealing of 2 horses, &c. and

2 & 3 Edw. 6. c. 33. Eng.

So stealing a single horse, &c.

thereupon

31 Eliz. c. 12.
s. 5. Eng.

*Accessaries also
ousted of
clergy.*

11.12&13Jac.1
c. 3. Ir.

*Stealing one
horse, &c. or
more, a capital
felony.*

*Stealing sheep,
&c. or killing
with intent to
steal carcass,
&c. a capital fe-
lony.*

14 Geo. 2. c. 6.
s. 1. Eng.

*Accessaries also
guilty capitally.*

s. 2.

*Reward to pro-
secutors.*

thereupon found guilty by verdict, or confessed the same upon his arraignment, or stood wilfully mute. And the 31 Eliz. c. 12. Eng. which regulates the public sale of horses, mares, geldings, colts, or fillies, enacts (s. 5.) that not only all accessaries before such felony as in s. 4. *ante* vol. 1. p. 598. (*viz.* of stealing any such horse, &c.) but also all accessaries after such felony, shall be put from all benefit of their clergy, as the principal, by statute heretofore made, is or ought to be. The 11. 12 & 13 Jac. 1. c. 3. Ir. also enacts, that if any person shall steal any horse, gelding, mare, or garran; and being indicted or appealed of said felony, and thereupon found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, or shall wilfully stand mute, or shall peremptorily challenge above 20 jurors, or shall be outlawed upon the same indictment, he shall receive judgment of death, without benefit of clergy. But no Irish statute deprives the accessaries to such felony of the benefit of clergy, in like manner as the 31 Eliz. c. 12. *supra*.

Next as to sheep and other cattle: the 14 Geo. 2. c. 6. Eng. recites, that evil-disposed persons had made it a practice secretly in the night to kill sheep, and strip off their skins, and then steal the carcasses, leaving the skins behind to prevent discoveries; and also in like manner to kill sheep, and then cut them open, and take out and steal their inward fat, leaving their carcasses behind to prevent being discovered; and enacts, that if any person shall, at any time, feloniously drive away, or in any other manner feloniously steal one or more sheep, or other cattle, of any other person; or shall wilfully kill one or more sheep, or other cattle, of any other person, with a felonious intent to steal the whole or any part of the carcass of any one or more sheep, which shall be so killed; or shall assist or aid any person to commit such offence; such offender shall be guilty of felony without benefit of clergy. And by s. 2. every person who shall apprehend and prosecute to conviction any offender guilty of any of the offences aforesaid, shall receive, as a reward upon such conviction, £10. to be paid within a month after such conviction, by the sheriff of the county

county where the offence shall be committed, (without deduction) to the person so apprehending and prosecuting such offender, upon tendering a certificate to the sheriff, signed by the judge, certifying such conviction, and where the offence was committed, and that such offender was apprehended and prosecuted by the person claiming the reward; which certificate the judge shall sign before the end of the same sessions or assizes at which such conviction shall be, and in such certificate shall appoint (in case more than one person shall claim a right to the reward) what proportion thereof shall be paid to each claimant; and if such sheriff shall die or be removed before the expiration of a month after such conviction, and demand made of the said reward, the same not being paid as aforesaid, the next succeeding sheriff shall pay the same within a month after demand, and certificate brought; and if default of payment shall be made by any sheriff, such sheriff shall forfeit to the person to whom such money is due, double the sum he ought to have paid, to be recovered by him, his executors or administrators, in any court of record at Westminster, by action of debt, &c. with treble costs of suit. And by s. 3. all sheriffs, their executors, &c. upon producing such certificates, and receipts for the monies paid, may deduct upon their accounts, all monies (other than double the sum, and treble costs) which they shall disburse; and if upon account of any sheriff there shall not be money sufficient in the hands of such sheriff, to reimburse him the monies so paid, he shall have the same repaid by the lord treasurer or commissioners of the treasury, out of the revenue of the crown, upon certificate from the clerk of the pipe. The 15 Geo. 2. c. 34. Eng. recites that it was doubtful to what sorts of cattle besides sheep the 14 Geo. 2. c. 6. *supra* was meant to extend; and therefore declares and enacts, that it shall extend to any bull, cow, ox, steer, bullock, heifer, calf, and lamb, as well as sheep, and to no other cattle. The 9 Ann. c. 6. Ir. enacts (s. 3.) that if any person shall feloniously steal any cow, bull, ox, steer, heifer, calf, or any sheep or lambs, above the value of 1s. and being indicted or appealed thereof shall be

Payment of reward by sheriffs enforced.

s. 3.

Sheriffs allowed such payments, in their accounts, or reimbursed,

15 Geo. 2. c. 34. Eng.

"Other cattle" in 14 Geo. 2. defined.

9 Ann. c. 6. s. 3. Ir.

*Stealing cows,
&c. of the value
of 1s. a capital
felony.*

s. 4.

*In what cases
such offenders
only burnt in the
hand and im-
prisoned.*

17 Geo. 2. c. 5.
s. 1. 1r.

*Persons killing
&c. cattle with
intent to steal
any part; and
their accessories
before the fact,
guilty capitally.*

be found guilty by verdict, or shall confess the same on his arraignment, or will not answer directly, or stand mute, or peremptorily challenge above 20 jurors, or shall be outlawed upon the same indictment; and also every person who shall be accessory before or after to any of said facts, shall suffer death without benefit of clergy. Provided (s. 4.) that where any person shall be lawfully convicted of the stealing of cows, bulls, oxen, steers, or heifers, not exceeding 2, or of the stealing of calves, sheep or lambs, not exceeding 10, on all indictments that shall be preferred at one and the same assizes, or sessions of *oyer and terminer* or gaol delivery, or in the same term in the king's bench, in case the justice before whom such person shall be convict, shall, upon the application of the grand jury of the county at the said term, assizes, or sessions, by presentment in writing for the purpose, think him a fit object of mercy, then he that shall be so convict shall be burned in the hand only; and after such burning in the hand he shall be enlarged out of prison, unless such justice shall, for further correction, think it convenient to detain him in prison for some longer time; which such justice, by rule of court or warrant under his hand, is empowered to do, not exceeding a year's imprisonment. And the 17 Geo. 2. c. 5. 1r. further enacts, that every person who shall kill, cut open, or skin any bull, ox, cow, steer, bullock, heifer, calf, sheep, or lamb, or any horse, mare, gelding, colt, filly, ass, or mule, with an intent to steal the whole or any part of the fat, flesh, skin, or carcass thereof, or shall thereout take the fat, or take away any part of the flesh, or carcass, or skin thereof, with an intent to steal the same; [or shall maliciously kill, maim, or wound, with an intent to destroy any one or more of the cattle aforesaid;] and his accessories before the fact, and every person who shall receive or buy any tallow, fat, or suet, or the skin or carcass, or any part thereof, of any such beast, or other cattle aforesaid, from such offender, knowing the same to be so unlawfully taken, shall be guilty of felony without benefit of clergy. And by s. 2. it shall be lawful for the grand-juries of the several

several counties at the assizes, (and for the grand juries of the county of Dublin, and county of the city of Dublin, at their quarter sessions,) to raise by presentment, as other county charges are raised, such sum as they shall think fit, not exceeding £5. for each offender convicted of any of the offences aforesaid, to be paid as a reward to any person who shall discover and prosecute to conviction any such offender; and in case there shall be 2 or more concerned in the discovery or prosecuting to conviction such offender, the justice may distribute such money amongst such discoverers or prosecutors in such shares as he shall think fit. Provided (s. 3.) that if any person shall, within 10 days after such offence, and before his conviction, first discover one or more of his accomplices, so as he or they be convicted, such offender shall be acquitted of such offence, and entitled to the reward, or such share thereof as any other discoverer might be entitled unto by virtue of this act. The 28 Geo. 3. c. 37. Ir. provides, that it shall be lawful for any constable, or other person, by warrant of any justice of peace, founded upon information on oath, to make search in all suspected houses, out-houses, and places, within the jurisdiction of such justice, for any sheep, hogget, or lamb, stolen or supposed to be stolen; and if such constable, &c. shall find any sheep, &c. so stolen, &c. or any mutton, mutton-fat, skin, or fleece of wool, of any sheep, lamb, or hogget so stolen, &c. in the possession, house, or out-house of any person so suspected of stealing the same, or receiving the same being stolen, he shall bring such suspected person before such justice of peace; and if such suspected person shall not make full and clear proof to the satisfaction of such justice, that such sheep, hogget, lamb, mutton, mutton-fat, skin or fleece of wool, or any of them were fairly and honestly bought, or otherwise come by, by such person, or given to him by the owner or proprietor thereof, and being convicted of the same, upon the oath of a witness, before such justice, he shall forfeit such sum not exceeding £5. for every sheep, hogget, lamb, piece of mutton, mutton-fat, skin or fleece of wool, as to such justice

s. 2.

Reward for discovering and convicting of offenders.

s. 3.

Offenders discovering accomplices, acquitted.

28 Geo. 3. c. 37.
s. 1. Ir.

Constables, &c. may search suspected houses, &c. for sheep, &c.

Persons in whose possession, &c. such sheep, &c. shall be found, how dealt with and punished.

tice shall seem reasonable, together with the charges previous to and attending such conviction, to be ascertained by such justice; or upon non-payment thereof, such justice shall commit such offender to the common gaol or house of correction of the county in which such offence shall be committed, by warrant, for any time not less than 3 weeks, nor exceeding 3 calendar months, or until the said penalty and charges shall be paid; one moiety of such penalty and charges to be paid to the informer, and the other to be divided by such justice, in equal portions, between the poor of the parish, and the constable or constables who shall appear to such justice to have been most active in carrying this act into execution. Provided (s. 2.) that nothing herein shall prevent any person not prosecuting under this act, from having such remedy as is provided by the laws now in being against sheep stealing.*

s. 2.

Proviso.

Penalty for stealing dogs, or selling, &c. them when stolen.

10 Geo. 3. c. 18.
s. 1. Eng.

By the 10 Geo. 3. c. 18. Eng. any person who shall steal any dog of any kind from the owner thereof, or from any person entrusted by the owner with such dog; or shall sell, buy, receive, harbour, detain or keep any dog, knowing it to have been stolen as aforesaid; shall, upon being convicted upon the oath of a witness, or by his confession, before any 2 justices of peace for any county, &c. for the 1st offence, forfeit such sum not exceeding £30. nor less than £20. as to such justices shall seem meet, together with the charges previous to and attending such conviction, to be ascertained by such justices; and in case such penalty shall not be forthwith paid, such justices shall commit the offender to the common gaol, or house of correction, for any time not exceeding 12 nor less than 6 calendar months, or until the penalty and charges shall be paid: and if any person shall be afterwards convicted of the like offence, he shall forfeit such sum not exceeding £50. nor less than £30. as to such justices shall seem meet, together with the

* The 19 & 20 Geo. 3. c. 37. Ir. authorized in like manner a search for lambs stolen, or suspected to be stolen; but by this statute the penalty upon persons not giving a satisfactory account of such lambs, is but to exceed 40s. and upon non-payment, such person to be imprisoned for any time not exceeding 6 months; and such penalty is by this act to be distributed between the informer and poor of the parish.

the charges previous to and attending such conviction, to be ascertained by such justices before whom he shall be so convicted; one moiety of such penalties to be paid to the informer, and the other to the poor of the parish where the offence shall be committed, and, upon non-payment thereof, such justices shall commit the offender to the common gaol or house of correction, for any time not exceeding 18 nor less than 12 months, or until the penalty and charges shall be paid; and such justices shall also order the offender to be publicly whipped within 3 days after such commitment, in the town wherein such gaol or house of correction shall be, between the hours of 12 and 1. And by s. 2. it shall be lawful for a justice of peace of any county, &c. upon information, to grant a warrant to search for any dog stolen; and in case such dog, or the skin thereof, shall upon such search be found, to take and restore such dog or skin to the owner; and the person in whose custody such dog or skin shall be found, (in case it shall appear that such person was privy to such dog having been stolen, or that such skin was the skin of any dog stolen,) shall be liable to the like penalties and punishments as persons convicted of stealing dogs are herein-before made subject to. By s. 3. all justices of peace are to cause such convictions to be drawn in a form hereby prescribed, or in words to the same effect. But by s. 4. if any person shall think himself aggrieved by any thing done in pursuance of this act, such person may appeal to the justices of peace at the next quarter session for the county, &c. wherein the cause of complaint shall arise, and within 4 days after the cause of complaint shall have arisen; such appellant giving 14 days notice in writing, of his intention to bring such appeal, and of the matter thereof, to the persons whose acts are complained against, and, within 2 days after such notice, entering into a recognizance before a justice of peace for such county, &c. with 2 sureties, conditioned to try such appeal, and abide the order of, and to pay such costs as shall be awarded by, the justices at such session: and the justices at such session, upon due proof of such notice being given as aforesaid, and of the entering into

*Penalty how
enforced and
applied.*

s. 2.

*Search for
dogs stolen.*

*Penalty for
those in whose
possession dogs
found.*

s. 3.

*Form of con-
victions.*

s. 4.

*Appeal to ses-
sions.*

such recognizance, shall hear, &c. the matter of such appeal in a summary way, and award such costs to the party appealing or appealed against as said justices shall think proper; and the determination of such sessions shall be final; and no proceeding touching the conviction of any offender against this act, shall be quashed for want of form, or be removed by *certiorari*, or other writ or process, into any court of record at Westminster. And by the 27 Geo. 3. c. 34. Ir. if any person shall steal any dog of any kind from the owner thereof, or from any person entrusted by the owner thereof with such dog, or shall sell, buy, receive, harbour, detain or keep any dog, knowing the same to have been stolen as aforesaid, such person, upon being convicted before a justice of peace of the county, &c. wherein such offence shall be committed, or before the justices at the quarter sessions, or any adjournment thereof, (who shall summarily and finally hear and determine the same) upon the confession of the party, or upon the oath of any person, shall be punished by fine not exceeding £10.; and in case such fine shall not be paid, shall be imprisoned for any time not exceeding a month. And by s. 2. any person convicted a 2nd time of such offence, shall be fined a sum not exceeding £20. and in case such fine shall not be paid, shall be imprisoned for any time not exceeding 3 months. And by s. 3. if any person shall be so convicted a 3rd time, he shall be committed to the house of industry, or house of correction, to be kept to hard labour for any time not exceeding 6 months. And by s. 4. if any person wilfully and unlawfully take and carry away, or poison and destroy, any mastiff or other dog, such person, being convicted before a justice of peace for the county, &c. shall be committed to the house of correction of such county, &c. for 3 months. By s. 5. it shall be lawful for a justice of peace for any county, &c. upon information, to grant a warrant to search for any dog stolen, and if such dog, or the skin thereof, shall upon such search be found, to take and restore such dog or skin to the owner; and the person in whose custody such dog or skin shall be found, (in case

27 Geo. 3. c. 34.
s. 1. Ir.

Penalty for
stealing, &c.
dogs in Ireland.

s. 2 & 3.

Penalty for 2nd
and 3rd offence.

s. 4.

Punishment for
taking away or
poisoning dogs.

s. 5.

Search for
stolen dogs.

case it shall appear that such person was privy to such dog having been stolen, or that such skin was the skin of a dog stolen) shall be liable to the like penalties and punishments as persons convicted of stealing dogs are herein-before made subject to. Provided (s.6.) that this act shall not abridge the privilege of lords of manors.

Penalty of those on whom found.

s. 6.
Proviso.

By the 22 Car. 2. c. 5. s. 3. Eng. no person who shall be indicted for felonious cutting and taking, stealing or carrying away of any cloth, or other woollen manufacture, from the rack or tenter, (where according to the preamble the said cloth is put for the drying thereof) in the night-time, and be thereupon found guilty by verdict, or shall confess the same on arraignment, or will not answer to the same directly, or shall stand mute, or challenge peremptorily above 20, &c. or shall be upon such indictment outlawed, shall be admitted to the benefit of clergy. But by s. 4. (which has been already stated, *ante* p. 514.) the court may stay the execution, and cause such offender to be transported for 7 years.

Stealing cloth from the rack or tenters in the night, a capital felony.

22 Car. 2. c. 5.
s. 3. Eng.

And the 15 Geo. 2. c. 27. Eng. further enacts, that if any cloth or woollen goods remaining upon the rack or tenters, or any woollen yarn, or wool left out to dry, shall be stolen or taken away in the night-time, it shall be lawful for any justice of peace of the same county, &c. upon complaint made to him, within 10 days after such cloth, &c. shall have been so stolen, &c. by the owner of such cloth, &c. by his warrant to authorize any peace officer in the day-time to enter into and search the house, out-house, yard, garden, or other place belonging to the house of every person whom such owner shall upon his oath declare to such justice he suspects to have stolen, taken away, or received the same; and if such officer shall find any cloth, &c. which he shall, from the information of the person making such oath, have reason to suspect to be so stolen, &c. he shall forthwith apprehend every person in whose custody such cloth, &c. shall be found, and carry him before a justice of peace of such county, &c.; and if such person so apprehended shall not then and there give a satisfactory account how he acquired the property or possession of

15 Geo. 2.c.27.
s. 1. Eng.

Duty and power of justices in respect to search for cloth, &c. stolen in the night.

of

*Penalty for
those in whose
possession cloth,
&c. stolen is
found.*

*Punishment for
2nd offence.*

*Punishment for
subsequent
offence.*

s. 2.

*Proviso as to
appeals.*

of such cloth, &c. or, within some convenient time to be set by said justice, produce the party of whom he received the same, or some other credible witness to depose upon oath such property or right to the possession of said cloth, &c. such person so suspected, and not giving such satisfactory account, nor producing any such witness upon oath to testify as aforesaid, shall be adjudged convicted of stealing or taking away said cloth, &c. and shall, for the 1st offence, forfeit to the owner of such cloth, &c. treble the value thereof; and in default of payment thereof, in the time appointed by such justice for the payment thereof, such justice of peace shall issue his warrant to levy the same by distress, &c.; and in default of such distress, shall commit the offender to the common gaol of the county, &c. where the offender shall be apprehended, for 3 months, or until he shall pay the same; and if such person shall be convicted of such offence a 2nd time, he shall, besides the forfeiture of treble value of the cloth, &c. be committed to the common gaol for 6 months: and if such person shall be again convicted of such offence, the justice before whom he shall be so convicted, shall forthwith issue his warrant to commit the said offender to the common gaol, till the next assizes, or great session, where he shall be tried for said offence: and if such offender shall not, by producing the party of whom he acquired the property or possession of such cloth, &c. or otherwise, prove to the satisfaction of the jury, that he lawfully obtained the property or possession of the same, he shall be adjudged guilty of felony, and suffer transportation for 7 years, and be liable to the same punishment, and to the like methods of prosecution, trial, and conviction, for returning from such transportation, as other felons transported are liable unto. Provided (s. 2.) that if any person so suspected and apprehended, find himself aggrieved by the judgment of any justice, it shall be lawful for such person (unless he has twice before been convicted) to appeal unto the justices of peace in their next quarter sessions, who are to give such relief, and make such order therein, as to them seems meet; and such judgment

ment or order by them made upon said appeal shall be final. And by s. 3. this act shall not alter or repeal any law for the punishment of persons stealing or receiving such cloth, &c. except in such cases where the proof is laid upon the offender. No similar statutes have been made in Ireland.

By the 18 Geo. 2. c. 27. Eng. every person who shall, by day or night, feloniously steal any linen, fustian, calico, cotton cloth, or cloth worked, woven, or made of any cotton, or linen yarn mixed, or any thread, linen or cotton yarn, linen or cotton tape, incle, filleting, laces, or any other linen, fustian, or cotton goods or wares whatsoever, laid, placed, or exposed to be printed, whitened, bowked, bleached, or dried in any whitening or bleaching croft, lands, fields, or grounds, bowking-house, drying-house, printing-house, or other building, ground, or place made use of by any calico printer, whitster, crofter, bowker or bleacher, for printing, whitening, bowking, bleaching, or drying of the same, to the value of 10s; or who shall aid or assist, or shall wilfully or maliciously hire or procure any other person to commit any such offence, or who shall buy or receive any such goods so stolen, knowing the same to be stolen as aforesaid, shall be guilty of felony without benefit of clergy. Provided (s. 2.) that the judge or court before whom such offender shall be convicted, may order him to be transported for 14 years, in like manner as other felons. And by s. 3. if any such offender so ordered for transportation shall break gaol, or escape thereout, before such transportation, or shall return into or be at large within Great Britain, without some lawful cause, before the expiration of said 14 years, he shall suffer death as a felon, without benefit of clergy. It is one of the provisions of the 3 Geo. 3. c. 34, Ir. that no felon convicted of stealing linen, hempen, or cotton yarn, or linen or hempen cloth, or cloth made of linen and cotton yarn, or any materials or utensils used in bleaching the same, above the value of 5s. from any bleach-yard, buck-house or work-house, thereunto belonging, whether the fact be committed by day or night, shall be allowed

s. 3.

*Saving for former laws.**Stealing linen, &c. from bleaching grounds, &c. a capital felony.*

18 Geo. 2. c. 27, s. 1. Eng.

Accessaries and receivers also guilty capitally.

s. 2.

Court may transport offenders.

s. 3.

Returning from transportation, &c. a capital felony.

3 Geo. 3. c. 34. s. 77. Ir.

Persons stealing linen or cotton yarn or cloth to value of 5s. guilty capitally.

17 & 18 Geo.3. c.21. s. 24. Ir. lowed the benefit of clergy. And by the 17 & 18 Geo.3. c. 21. s. 24. Ir. every person that shall, by day or by

*Stealing goods
to value of 5s.
out of linen-hall
or yarn-hall
Dublin, a ca-
pital felony.*

night, privately and feloniously steal any goods or chattels, wares or merchandizes, of the value of 5s. or more, being in the linen-hall or yarn-hall (in the county of the city of Dublin) or in any house or office thereunto belonging, although the said linen-hall, &c. be not actually broken by such offender, and although the owner of such goods, &c. or any other person, be or be not in the said linen-hall, &c. or shall assist or aid any person to commit any such offence, being thereof convicted or attainted by verdict or confession, or shall peremptorily challenge above 20, &c. shall be debarred of the benefit of

36 Geo.3. c.45. s. 1. Ir. clergy. And the 36 Geo.3. c. 45. Ir. provides, that it shall be

*Powers and du-
ties of justices in
respect to search-
ing for materials
of cotton or
woollen manu-
facture embez-
zled.*

lawful for any justice of peace, upon complaint made by any credible person, upon oath or affirmation, that there is cause to suspect that any purloined or embezzled materials, of the woollen or cotton manufacture, whether mixed or unmixed, wrought or unwrought, are concealed in any dwelling-house, out-house, yard, garden, or other place, by his warrant, to cause such dwelling-house, &c. to be searched in the day-time; and if any such materials shall be found therein, to cause the same, and the person in whose house, &c. the same shall be found, to be brought before any justice of peace, and if the said person shall not give an account to the satisfaction of such justice how he came by the same, he shall be adjudged guilty of a misdemeanor, and shall be punished in the manner herein-after mentioned, although no proof shall be given to whom such materials shall belong. And by s. 2. every peace officer

*Peace officers to
seize suspected
persons.*

and constable, and in cities and towns every beadle within his ward, parish, or district, and every watchman during such time only as he is on his duty, shall and may apprehend, (or cause, &c.) every person who may be reasonably suspected of having, or carrying or conveying, at any time after sun-setting and before sun-rising, any such materials suspected to be purloined or embezzled, and the same, together with such person,

as

as soon as conveniently may be, convey or carry before any justice of peace for the county or place in which the suspected person shall be apprehended; and if the person so apprehended in conveying such materials, shall not produce the party duly entitled to dispose thereof, from whom he bought or received the same, or some other credible witness to testify upon oath or affirmation the sale or delivery of said materials, or shall not give an account to the satisfaction of such justice, how he came by the same, then said person so apprehended shall be adjudged guilty of a misdemeanor, and be punished in manner herein-after mentioned, although no proof shall be given to whom such materials belong. Provided (s. 3.) that in either of the two cases last before mentioned, when any person who shall be brought before a justice of peace, shall request of such justice to appoint a reasonable time to produce the person duly entitled to sell or dispose of the same, of or from whom he bought or received the same, or some credible witness to prove the sale or delivery thereof, then said justice shall appoint such reasonable time as aforesaid, and issue a summons to the constable or other peace officer of the parish or place where such person or such witness shall respectively reside, requiring him to appear before such justice at such time and place as shall be appointed by such justice, in order to be examined, and give evidence on oath or affirmation of the several matters aforesaid; but such person at the time of making such request, shall enter into recognizance with or without surety or sureties, as such justice shall think proper, for his appearance before them, at the time to be appointed, or for want of such recognizance, shall be committed until the time that shall be appointed by said justice for the appearance of such party or witness; and if at such appointed time such person shall be convicted of any of the offences aforesaid, then he shall suffer such punishment as is herein-after directed to be inflicted on persons guilty of such offences. By s. 4. where any person shall be convicted of a misdemeanor, in either of the two cases last mentioned, it shall

s. 3.

Proviso as to allowing time to person brought before justice, to produce the person from whom he received materials.

s. 4.

*Materials how
disposed of
pending inquiry.*

*Notice required
to be given to
owners of ma-
terials.*

*If property in
materials not
proved, how dis-
posed of.*

s.5.

*Penalty for not
accounting satis-
factorily for pos-
session of embez-
zled materials.*

shall be lawful for the justice before whom the conviction shall be, to cause the said materials so found or seized, to be deposited in the hands of the church-wardens of the parish wherein such materials are found or seized, for any time not exceeding 30 days; and in the mean time to order the said church-wardens, or one of them, to insert an advertisement in one or more of the public newspapers, usually published in or near such place; and also to cause notice to be given, if in a city or town, by some public crier, and by fixing up notice on some public place within the same, describing such materials, and where the same are deposited, to the end that persons having lost such materials, or any person on their behalf, may come and claim the same; and in case any person can prove his property in said materials upon oath or affirmation, to the satisfaction of any justice of peace for said district, then such justice shall order restitution of such materials to the owner thereof, after paying the reasonable charges of removing, depositing, and giving public notice of the same; but if before the end of the said 30 days, no person shall come and prove his property in such materials, nor any reputable person on his behalf, then said justice shall order the same to be sold for the best price that can reasonably be had, and, after deducting such charges together with the charges of sale, one moiety of the money arising from such sale shall be given to the persons who apprehended or prosecuted such offender, as the said justice shall appoint, and the other moiety amongst the poor of the parish where the conviction shall be, or to such public charity as the justice convicting shall appoint. By s. 5. every person adjudged guilty of a misdemeanor, in having in his possession any materials suspected to be purloined or embezzled, and not producing the party entitled to dispose of the same, of whom he bought or received the same, nor any credible witness to testify upon oath or affirmation the sale or delivery thereof, nor giving a satisfactory account how he came by the same, as the case shall be, shall forfeit for the 1st offence £5. for the 2nd offence £10, and

and for every subsequent offence £20.; such forfeitures to be levied by distress, &c. by warrant of the justice before whom such offender shall be adjudged guilty; of which forfeiture one moiety shall be paid to the informer, and the other amongst the poor of the parish where such conviction shall be, or to such public charity as the justice convicting shall appoint; and if no sufficient distress shall be found, then said justice shall and may commit such offender to the common gaol or other prison or house of correction within his jurisdiction, for a month, and for the 2nd offence for 2 months, and for every subsequent offence for 3 months. By s. 6.

Penalties for subsequent offences.

Penalties how disposed of.

s. 6.

it shall be lawful for the owner of any such materials, from time to time as occasion shall require, to demand entrance, and enter at all reasonable hours in the day-time, into the shops or out houses of any person employed by him to work up any of said materials, or other place where the work shall be carried on, and there to inspect the state of such materials; and in case of refusal, by any person so employed, to permit such entrance or inspection, he so refusing shall forfeit such sum not exceeding 40s. nor less than 10s. as the justices before whom he shall be convicted shall think proper; to be recovered and applied in the same manner as is by this act directed for the misdemeanor of being in the possession of any such materials, without being able to account satisfactorily for such possession. And by s. 7.

Owners of materials may search houses, &c. of persons employed by them, for materials embezzled.

Penalty for resisting search.

s. 7.

in case of any offender convicted under this act, refusing or not being able to pay such fine as aforesaid, the said justice shall and may commit him to the common gaol or other prison, or house of correction, within his jurisdiction, for a month, or until such fine shall be paid.

Payment of fines how enforced.

37 Geo 3. c. 61.
s. 6. 1r.

The 37 Geo. 3. c. 61. 1r. further enacts (s. 6.) that upon complaint made upon oath to any justice of peace, that any linen cloth, calico, muslin, or cloth made of cotton, or cotton and linen mixed, or any linen yarn, has been stolen, fraudulently secreted, or embezzled from any bleach-green, or from any bleacher, or person dealing in any branch of the linen or cotton trade, it shall be lawful for such justice to issue his warrant to search for the

Further provision authorizing search for linen, &c. stolen.

Penalty on persons not proving that they obtained the possession thereof honestly.

s. 7.

Recognizance to keep the peace required of such persons.

s. 8.

Persons refusing to give such security how punished.

Stealing goods to the value of 40s. out of any ship, &c. a capital felony.

24 Geo. 2. c. 45.
Eng.

the same in all suspected places; and if any such goods suspected to be stolen, &c. shall be found in the possession of any person, or in the house, out-house, garden, yard, office, or field of any person, to bring such person, and also such goods, before any justice of peace; and if the person so brought shall not prove to the satisfaction of such justice, that he came honestly by the same, such justice shall fine such person in such sum not exceeding £5. nor less than 20s. for every such piece of linen, calico, muslin, cotton, or cotton and linen mixed, and not exceeding 20s. nor less than 2s. for every pound weight of such linen yarn so found; or may send such person to the common gaol of the county, there to remain not less than 1 nor more than 6 months, at his discretion; every such fine to be levied by distress, &c. by warrant of the justice by whom the same shall be imposed. Provided (s. 7.) that it shall be lawful for every justice of peace by whom any such fine shall be imposed, to require the person so fined to give security, himself in any sum not exceeding £20. with 2 sureties for any sum not exceeding £10. each, that he shall be of the peace and good behaviour for 2 years at the least. And by s. 8. if any person shall be committed as aforesaid by any justice, such justice may require him to give like security as aforesaid, and to be kept in gaol until he shall give and procure the same; and if any person required by this act to give security, shall neglect or refuse so to do, such person shall be deemed an idle and disorderly person within the meaning of all acts respecting the same, and may be presented by the grand jury as such, and dealt with accordingly.

By the 24 Geo. 2. c. 45. Eng. every person that shall feloniously steal any goods, wares or merchandize, of the value of 40s. in any ship, barge, lighter, boat or vessel, or craft, upon any navigable river, or in any port of entry or discharge, or in any creek belonging to any navigable river, port of entry or discharge, within Great Britain; or shall feloniously steal any goods, &c. of the value of 40s. upon any wharf or quay adjacent to any navigable river, port of entry or discharge, or shall

be

be present aiding and assisting in the committing any of the offences aforesaid, being thereof convicted or attainted, or being indicted thereof, shall of malice stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 20, &c. shall be excluded from the benefit of clergy. The 17 Geo. 2. c. 6. 17 Geo. 2. c. 6. s. 1. Ir. Ir. (which will be more fully stated in another place) enacts (s. 1.) that every person who shall feloniously steal any goods to the value of 5s. left on any quay, or in any wharf, by any merchant or other person, or shall assist, hire, or command any person to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 20, &c. shall be debarred from the benefit of clergy, Persons stealing goods to the value of 5s. on any quay, &c. guilty capitally.

By the 39 & 40 Geo. 3. c. 77. s. 5. Eng. if any person shall steal and take away any coal, culm, or coak, wood, iron, ropes, or leather, not exceeding the value of 5s. from any bank, yard, wharf, or other place, belonging to any manufacturer or coal dealer, or off or out of any boat, barge, waggon, cart, or other carriage used for carrying coal, culm, coak, iron, or iron stone, or shall steal, break, destroy, damage, or embezzle any tools or implements used for cutting or getting coal, culm, or other minerals, not exceeding the value above mentioned, and shall, on complaint of the owner or his agent, be thereof convicted by confession, or by oath of a witness before a justice of peace of the county where the offence shall be committed, he shall, for the 1st offence, forfeit such sum not exceeding 10s. as to such justice shall seem meet, over and above the charges previous to and attending such conviction, to be ascertained by such justice; and upon non-payment thereof, such justice shall commit the offender to the house of correction to be kept to hard labour for a month, or until the penalty and charges shall be paid; and if any person shall be so convicted a 2nd time, he shall forfeit such sum not exceeding 20s. as to such justice shall seem meet, over and above the charges, &c. and upon non-payment Penalty for stealing coals, &c. to the value of 5s. from bank, yard, &c. 39 & 40 Geo. 3. c. 77. s. 5. Eng. Or tools for cutting, &c. coal. Penalty for 2nd offence.

*Penalty for
3rd offence.*

s. 6.

*Penalties how
distributed.*

s. 7.

*Inhabitants com-
petent witnesses.*

s. 8.

*Form of
convictions.*

s. 9.

*Limitation for
prosecutions.*

s. 10.

*Appeal to
sessions.*

payment thereof, such justice shall commit the offender to the house of correction, to be kept to hard labour for 3 months, or until the penalty and charges shall be paid; and if any person shall be so convicted a 3rd time, or oftener, he shall forfeit such sum not exceeding 40s. as to such justice shall seem meet, over and above the charges, &c. and upon non-payment thereof, such justice shall commit the offender to the house of correction, to be kept to hard labour for 6 months, or until the penalty and charges shall be paid: provided that no person who shall be convicted of any offence under this act, shall be liable to be prosecuted for the same offence under any other law. And by s. 6. every forfeiture to be paid in pursuance of this act, shall be distributed between the informer and the overseers of the parish or place where the offence shall be committed, for the use of the poor, in such proportion as the justice before whom the offender shall be convicted, shall think fit. By s. 7. in all informations and other proceedings for any such offences, the evidence of the inhabitants of the parish or place where the offence shall be committed, shall be taken and allowed. And by s. 8. all convictions shall be drawn in a form hereby prescribed, or to the same effect. But by s. 9. no person shall be prosecuted for any offence against this act, unless such prosecution be begun within 9 calendar months after the offence. And by s. 10. any person aggrieved by any order or determination of any justice, save any order of commitment, may, within 3 calendar months after such order, &c. complain to the justices at the quarter sessions of the county or place where the cause of appeal shall arise, who shall hear, &c. such complaint, or adjourn the hearing thereof to the next quarter sessions of such county, &c. and may quash any conviction, or mitigate any forfeiture or fine, and award costs to either party, or order any money to be returned which shall have been levied in pursuance of such order, &c. and award such further satisfaction to the party injured as they shall judge reasonable: but no proceedings to be had in pursuance of this act shall be quashed for

want

want of form, or removed by *certiorari*, or other writ or process, into any court of record at Westminster. No statute similar to this has been made in Ireland.

Next with respect to mixed or compound larceny: of which the first species is larceny in a church or other holy place: it was first enacted by the 23 Hen. 8. c. 1. s. 3. Eng. (which is revived or confirmed by the 5 & 6 Edw. 6. c. 9.) that no person who shall be found guilty of robbing of any churches, chapels, or other holy places, or of any abetment, procurement, helping, maintaining, or counselling of or to any such felonies, shall be admitted to the benefit of his clergy; such as be within holy orders only excepted. But by the 25 Hen. 8. c. 3. s. 2. Eng. every person indicted of any felony according to the 23 Hen. 8. c. 1. *supra*, who thereupon arraigned do stand mute, or challenge peremptorily above 20, or do not answer directly to the same indictment whereupon he is so arraigned, shall lose the benefit of his clergy, in like manner as if he had directly pleaded to the felony whereupon he is so arraigned, and thereupon had been found guilty. But the 1 Edw. 6. c. 12. s. 10. Eng. further enacts, that no person who shall be in due form of law attainted or convicted of feloniously taking of any goods out of any parish church or chapel, or being indicted or appealed of such offence, and thereupon found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, or shall stand mute, shall [*not] be admitted to the benefit of clergy. By the 11. 12 & 13 Jac. 1. c. 3. s. 1. Ir. any person who shall rob any church or chapel, and being indicted or appealed of said felony, and found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, or shall stand mute, or shall peremptorily challenge above 20 jurors, or shall be outlawed upon the said indictment, shall suffer death without benefit of clergy.

By the 3 W. & M. c. 9. s. 1. Eng. every person who shall feloniously take away any goods or chattels being in any dwelling-house, the owner or any other person being

Persons robbing churches, &c. guilty capitally.

23 Hen. 8. c. 1. s. 3. Eng.

Exception of clerks in orders.

25 Hen. 8. c. 3. s. 2. Eng.

Persons standing mute, &c. when indicted for offences against 23 Hen. 8. c. 1. guilty capitally.

1 Edw. 6. c. 12. s. 10. Eng.

Stealing goods out of church, &c. a capital felony.

* This is ungrammatical.

11 12 & 13 Jac. 1. c. 3. s. 1. Ir.

Robbing any church, &c. in Ireland, a capital felony.

Taking goods out of dwelling house, the owner &c. being put in fear; or robbing dwelling.

house in day-time, any person being therein, a capital felony.

3 W. & M. c. 9.
s. 1. Eng.

9 W. 3. c. 7.
Ir.

Robbing houses in the day-time of goods to the value of 5s. a capital felony.

39 Eliz. c. 15.
Eng.

3 W. & M. c. 9.
s. 1. Eng.

Accessories also guilty, capitally.

being therein, and put in fear; [*or shall rob any dwelling-house in the day-time, any person being therein;] or shall comfort, aid, abet, assist, counsel, hire, or command any person to commit any such offence, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 20, &c. shall not have the benefit of clergy. And the 9 W. 3. c. 7. Ir. provides in like manner in respect to this species of mixed or aggravated larceny.

The 39 Eliz. c. 15. Eng. recites, that divers felonious persons understanding that the robbing of houses in the day time, no person being therein at the time, is not so penal as where some person is therein, had been emboldened to take their opportunity to commit many heinous robberies in breaking and entering divers houses, &c.; and enacts, that if any person shall be found guilty, and convicted by verdict, confession, or otherwise, according to law, for the felonious taking away, in the day-time, of any money, goods, or chattels, being of the value of 5s. or upwards, in any dwelling-house, or any part thereof, or any out-house, belonging and used to and with any dwelling-house, although no person shall be in said house or out-house, at the time of such felony committed, then such person shall not be admitted to the benefit of clergy. And by the 3 W. & M. c. 9. s. 1. Eng. every person who shall comfort, aid, abet, assist, counsel, hire, or command any person to break any dwelling-house, shop, or ware-house thereunto belonging, or therewith used, in the day-time, and feloniously take away any money, goods, or chattels, of the value of 5s. therein being, although no person be within such dwelling-house, &c. being thereof convicted or attainted, or being indicted thereof shall stand mute, or will

* I have thought it right to state the clause of the 1 Edw. 6. c. 12. Eng. (which relates to the offence of house-breaking) in another place, *ante* p. 922. as it does not expressly require the actual commission of the felony of stealing any goods, to constitute the crime.

will not directly answer to the indictment, or shall peremptorily challenge above 20, &c. shall not have the benefit of clergy. The 9 W. 3. c. 7. Ir. has precisely followed this clause of the 3 W. & M. c. 9. Eng. but no Irish statute relates to such principal offenders as the 39 Eliz. c. 15. Eng. *supra*, does.

By the 12 Ann. st. 1. c. 7. s. 1. Eng. every person that shall feloniously steal any money, goods or chattels, wares or merchandizes, of the value of 40s. being in any dwelling house or out-house, thereunto belonging, although such house or out-house be not actually broken by such offender, and although the owner of such goods, or any other person, be not in such house, &c. or shall assist or aid any person to commit any such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 20, &c. shall be debarred from the benefit of clergy. Provided (s. 2.) that nothing in this act shall extend to apprentices under the age of 15 years, who shall rob their masters as aforesaid. And by the 9 Ann. c. 6. s. 3. Ir. any person who shall steal or feloniously take away any goods of the value of 5s. out of any dwelling-house [*or shop, or out of any stable or coach-house, or booth in any fair or market,] and being indicted or appealed thereof, shall be found guilty by verdict, or shall confess the same on his arraignment, or will not answer directly, or shall stand mute, or shall challenge peremptorily above 20, &c. or shall be outlawed on the same indictment; and also every person who shall be accessory before or after to any of the aforesaid acts; shall suffer death without benefit of clergy.

Stealing to the value of 5s. out of any dwelling house, &c. although such house be not broken, &c. a capital felony.

12 Ann. st. 1. c. 7. s. 1. Eng.

s. 2.

Proviso as to apprentices

9 Ann. c. 6. s. 3. Ir.

Analogous statute.

The 10 & 11 W. 3. c. 23. Eng. enacts, (s. 1.) that every person that shall, by night or in the day-time, in any shop, ware-house, coach-house or stable, privately and feloniously steal any goods, wares or merchandizes, being of the value of 5s. (although such shop, &c. be

Privately stealing from any shop, &c. to the value of 5s. a capital felony.

10 & 11 W. 3. c. 23. s. 1. Eng.

VOL. II.

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not

* *Vide* 17 Geo. 2. c. 6. *post* p. 998 9.

not actually broke open by such offender, and although the owner of such goods, or any other person be not in such shop, &c. to be put in fear,) or shall assist, hire, or command any person to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 23 persons returned to be of the jury, shall be excluded from the benefit of clergy. But

s. 5.

Persons discovering 2 or more accomplices pardoned.

this act provides (s. 5.) that if any person shall commit any [burglary, house-breaking,] or felony in stealing of [any horse,] or any money, wares, or goods, from whom the benefit of clergy is by this act taken away, and being out of prison shall discover 2 or more persons who shall commit any such burglary, &c. and be convicted thereof, or cause to be discovered and apprehended 2 persons or more who shall be convicted as aforesaid, such discoverer shall have his majesty's pardon for such burglary, &c. which he shall have committed at any time before such discovery made; which pardon shall likewise be a good bar to any appeal brought for such

17 Geo. 2. c. 6. s. 5. Ir.

Privately stealing to the value of 5s. out of any shop, &c. a capital felony in Ireland.

burglary, &c. The 17 Geo. 2. c. 6. Ir.* is analogous, which enacts, that every person that shall, by night or in the day-time, privately and feloniously steal any goods, wares, and merchandizes, to the value of 5s. out of any shop, tan-yard, or drying-house, belonging to a tanner, ware-house, cellar, coach-house, stable, or out-house, though not adjoining to the dwelling-house of the owner thereof, although such shop, &c. be not actually broke open by such offender, and although the owners of such goods, or any other person be not in such shop, &c. to be put in fear, or shall feloniously steal any goods to the value of 5s. left on any quay or in any wharf in this kingdom by any merchant, or shall assist, hire, or command any person to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall

* *Vide* 9 Ann. c. 6. Ir. *ante*. p. 997.

shall peremptorily challenge above 20, shall be excluded from the benefit of clergy. But by s. 3. if any person shall commit any felony in stealing any wares or goods, from whom the benefit of clergy is hereby taken away, and being out of prison shall discover and apprehend, or cause to be discovered, &c. 2 or more persons who shall commit any such felony as aforesaid, and shall be convicted thereof, he shall be entitled to his majesty's pardon for every such felony which he shall have committed at any time before such discovery made; which pardon shall be a good bar to any appeal brought for such felony. And by s. 2. the grand juries at the assizes of the county, or county of the city or town where any of the said offences shall be committed, (and the grand juries at the quarter sessions for the county of Dublin, and county of the city of Dublin) may make presentments, if they think fit, for raising any sum not exceeding £5. for every person who shall apprehend any person guilty of any of said felonies, and prosecute such person to conviction, which presentment shall be confirmed by the judge of assize, and if in the county or county of the city of Dublin, by the justices of peace at the quarter sessions.

s. 3.

Offenders discovering 2 or more accomplices pardoned.

s. 2.

Grand juries to present reward for persons apprehending such offenders.

Next with respect to the several species of larceny from the person: By the 48 Geo. 3. c. 129. E. (which repeals the 8 Eliz. c. 4. s. 2. Eng.) every person who shall, at any time, or in any place, feloniously steal, take, and carry away any money, goods, or chattels, from the person of any other, whether privily, without his knowledge, or not, but without such force or putting in fear as is sufficient to constitute the crime of robbery, or who shall be present, aiding, and abetting therein, shall be liable to be transported beyond the seas for life, or for such term not less than 7 years, as the judge or court, before whom such person shall be convicted, shall adjudge; or shall be liable, in case the judge or court shall think fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding 3 years. By the 9 Ann. c. 6.

Stealing privily from the person, how punished.

48 Geo. 3. c. 129. E.

9 Ann. c. 6.
s. 3. Ir.

Stealing privily from the person to the value of 5s. a capital felony in Ireland.

s. 3. Ir. if any person shall steal, or feloniously take away any goods of the value of 5s. privily and secretly from the person of any man or woman, and being indicted or appealed thereof, shall be found guilty by verdict, or shall confess the same on his arraignment, or will not answer directly, or shall stand mute, or shall peremptorily challenge above 20 jurors, or shall be outlawed on the same indictment, and also every person who shall be accessory before or after to any of the aforesaid facts, shall suffer death without benefit of clergy.

Robbing any person in a dwelling house, or near the highway, a capital felony.

23 Hen. 8. c. 1.
s. 3. Eng.

Accessaries also guilty capitally.

25 Hen. 8. c. 3.
Eng.
1 Edw. 6. c. 12.
s. 10. Eng.

Persons confessing such offence, or standing mute, &c. also guilty capitally.

5 & 6 Edw. 6.
c. 9. Eng.

Robbing any person in a dwelling-house, though the owner, &c. be not in the part so robbed or though the owner, &c. be asleep, a capital felony.

The 23 Hen. 8. c. 1. Eng. (which has been already referred to, *ante* p. 995.) enacts (s. 3.) that no person who shall be found guilty for robbing of any person in his dwelling-house, or dwelling-place, the owner or dweller in the same house, his wife, children, or servants then being within, and put in fear and dread by the same; or for robbing of any person in or near about the highways; nor any person found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such felony, shall be admitted to the benefit of clergy, such as be within holy orders only except. And the 25 Hen. 8. c. 3. Eng. *ante* p. 995. is to be here also referred to. And by the 1 Edw. 6. c. 12. s. 10. Eng. no person that shall be attainted or convicted of or for robbing any person in or near to the highway, or being indicted or appealed of such offence shall be found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, or shall stand mute, shall be admitted to have the benefit of clergy. The 5 & 6 Edw. 6. c. 9. Eng. recites the 23 Hen. 8. c. 1. *supra*, and that it had been doubted whether if such robberies and felonies have been committed in dwelling-houses and dwelling-places, the owner or dweller in the same, his wife, children, or servants, being then put in fear or dread by the same, the offender should lose his clergy, unless the same robbery or felony be committed in the very chamber, house or place, where the owner or dweller in the same house, his wife, &c. shall happen to be or lie at the time of such robbery or felony, and

put

put in fear or dread; although the owner and dweller in such house, &c. his wife, &c. at the time of such robbery and felony, were or lay in other places within the precinct of the same dwelling-houses nigh unto the house or place where such robbery, &c. shall happen to be done: or if it happen that the owner or dweller within the same house where such robbery, &c. shall happen to be done, his wife, &c. be asleep at the time of such robbery, &c. although such robbery were done in the chamber or place where the owner or dweller in the same house, his wife, &c. then lay; the offender being found guilty thereof, should lose the benefit of clergy; and for explanation of such doubt enacts, that if any person be found guilty of robbing of any person in any part or parcel of his dwelling-house or dwelling-place, the owner or dweller in the same house, or his wife, his children or servants, being then within the same house or place, or within the precinct of the same house or dwelling-place, such offender shall not be admitted to the benefit of clergy, whether the owner or dweller in the same house, his wife or children, then and there being, shall be waking or sleeping. And this statute further recites (s. 3.) that it had been doubted whether if such robberies and felonies be committed in any booth or tent in any fair or market, the owner of the same, his wife, &c. being within the same at the time of the committing of such felonies, and put in fear and dread, the offenders therein, being found guilty, should not lose their clergy; and therefore enacts (s. 5.) that no person which shall be found guilty of robbing any person in any booth or tent in any fair or market, the owner, his wife, children, or servants, then being within the same booth or tent, shall [*not] be admitted to the benefit of clergy, whether the owner or dweller in such booths and tents, his wife, &c. being in the same at the time of such robberies and felonies committed, shall be sleeping or waking. And the 4 & 5 Ph. & M. c. 4. Eng. further enacts, that every person who shall maliciously command, hire, or counsel any person to commit or do any robbery in any dwelling-house, or in or near any highway in the realm

s. 3. & 5.

Robbing any person in a booth or tent, though the owner, &c. be not within the same, or though he be asleep, a capital felony.

* This is ungrammatical.

4 & 5 Ph. & M. c. 4. Eng.

Accessaries to robbery in a dwelling-house, or near the highway, guilty capitally.

3 W. & M.
c. 9. Eng.

*Persons stand-
ing mute, &c.
upon indictments
for robbery,
guilty capitally.*

11. 12. & 13.
Jac. 1. c. 3. Ir.

*Robbing any
person in or
about a dwell-
ing-house; or
in a booth or
tent; or near a
highway, &c. a
capital felony.*

9 W. 3. c. 7.
Ir.

*Persons de-
manding money
forcibly with in-
tent to rob, lia-
ble to be trans-
ported.*

7 Geo. 2. c. 21.
Eng.

realm of England, or in any of the queen's dominions, or to commit or do any robbery in any place within the marches of England, against Scotland; such offender being outlawed thereof, or being thereof arraigned and found guilty by law, or being otherwise lawfully attainted or convicted of the same offence, or being arraigned thereof do stand mute, or challenge peremptorily above 20, or will not answer directly to such offence, shall not have the benefit of clergy. And by the 3 W. & M. c. 9. Eng. every person who shall rob any other person, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above 20, shall not have the benefit of clergy. In Ireland the 11, 12 & 13 Jac. 1. c. 3. Ir. enacts, that if any person shall rob any person in his dwelling-house or place, the owner or dweller in the said house or place, his wife, children, or servants then being in or about the said dwelling-house, &c.; or shall rob any person in any booth or tent in any fair or market, the owner, his wife, child, or servant, then being within the same booth or tent, or shall rob any person in or near any highway, path, or passage, and being indicted or appealed of any of said felonies, and found guilty by verdict, or shall confess the same upon his arraignment, or will not answer directly, or shall stand mute, or shall peremptorily challenge above 20 jurors, or shall be outlawed upon the same indictment, shall receive judgment of death without benefit of clergy. And the 9 W. 3. c. 7. Ir. contains a provision precisely similar to the 3 & 4 W. & M. c. 9. *supra*. But there is in Ireland no such declaratory act as the 5 & 6 Edw. 6. c. 9. *supra*, nor any statute extending to accessaries similar to the 23 Hen. 8. c. 1. and 4 & 5 Ph. & M. c. 4. *supra*.

The 7 Geo. 2. c. 21. Eng. seems more proper to be referred to the head of robbery, than of assault, and has been, therefore, reserved for this place. This statute enacts, that if any person shall, with any offensive weapon or instrument, unlawfully and maliciously assault, or shall by menaces, or in or by any forcible or violent manner

manner, demand any money, goods or chattels, of or from any other person, with a felonious intent to rob or commit robbery upon such person, such offender shall be guilty of felony, and be liable to be transported as in cases of felony; and the court before whom he shall be convicted, shall have power to transport him for 7 years, in like manner as other felons. And by s. 2. if any offender who shall be ordered for transportation by virtue of this act, shall break gaol, or escape before such transportation, or shall return into Great Britain or Ireland before the expiration of said 7 years, he shall suffer death without benefit of clergy. The 21 Geo. 2. c. 12. Ir. is a transcript of this act.

s. 2. *Returning from transportation, &c. a capital felony.*

21 Geo. 2. c. 12. Ir.

II. I have reserved also for this place the statutes relative to the offence of *swindling*, or procuring money under false pretences; which seems to be more properly considered as an offence against private property, than against public trade, to which latter head Sir W. Blackstone has referred it. The 33 Hen. 8. c. 1. Eng. recites, that evil-disposed persons have of late falsely and deceitfully contrived, devised, and imagined privy tokens, and counterfeit letters in other mens' names, unto divers persons their special friends and acquaintances, for the obtaining money, goods, chattels, and jewels; and enacts, that if any person falsely and deceitfully obtain or get into his hands or possession, any money, &c. or other things, of any other person, by colour and means of any such false token or counterfeit letter made in any other man's name; such offender, being convict by witnesses taken before the lord chancellor, or by examination of witnesses, or confession, before the justices of assize in their circuits, or before the justices of peace in their general sessions, or by action in any court of record, shall have such punishment by imprisonment, setting upon the pillory, or by any corporal pain, (except pains of death) as shall be adjudged by the persons before whom he shall be convict. And by s. 3. as well the justices of assize, as also 2 justices of peace in every county, (whereof one to be of the *quorum*,) shall have power to convent to the assizes or sessions any persons suspected

§ 2. *Persons obtaining money, &c. by false pretences, how punished.*

33 Hen. 8. c. 1. s. 1. & 2. Eng.

s. 3. *Justices of assize, and justices of peace, to commit or bail offenders.*

s. 4.

Justices of peace within cities, &c. to have like jurisdiction.

30 Geo. 2.c.24.
s. 1. Eng.

Persons obtaining money, &c. by false pretences, or sending threatening letters with intent to extort money, may be transported, &c.

s. 2.

Prosecutors to be bound by recognizance.

suspected of the offences aforesaid, and to commit them to ward, or let them to bail, till the next assizes or general sessions. And by s. 4. justices of peace within every city, town, and franchise, shall have like jurisdiction as justices of assize, or justices of peace in the counties, for the punishment of offenders by this act: Saving to the party grieved by such deceit such remedy as he might have had before this act. And the 30 Geo. 2. c. 24. Eng. further enacts (s. 1.) that all persons who knowingly and designedly, by false pretence, shall obtain from any person, money, goods, wares, or merchandizes, with intent to cheat or defraud any person of the same; or shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with a fictitious name or letter, threatening to accuse any person of any crime punishable by law with death, transportation, pillory, or other infamous punishment, [*with a view or intent to extort or gain money, &c. from the person so threatened to be accused] shall be deemed an offender against the public peace; and the court before whom he shall be tried, shall, in case he shall be convicted of any of said offences, order such offender to be fined and imprisoned, or to be put in the pillory, or publicly whipped, or to be transported (according to the laws made for transportation of felons) for 7 years, as the court shall think fit. And by s. 2. any justice before whom any person charged on oath with having committed any of the said offences shall be brought, shall examine by oath, and such other lawful means as to such justice shall seem meet, touching the matters complained of, and deal with the offender according to law; and if the party charged be committed to prison, or admitted to bail, to answer the matters complained of at the next general or quarter sessions of the peace, or next sessions of *oyer and terminer* for the county, &c. wherein the offence is charged, then such justice

* The clauses of the 9 Geo. 1. c. 22. Eng. and 27 Geo. 2. c. 15. Eng. which relate to threatening letters, have been already stated *ante* p. 624.8. and are proper to be here referred to.

justice shall bind over the prosecutor to appear at such sessions, by recognizance, in such reasonable sum as to such justice shall seem requisite, to prosecute such offender with effect; and if any money, &c. fraudulently obtained appear to such justice to exceed the amount or value of £20. then the recognizance to be taken from the prosecutor shall be in not less than double the amount or value. The 26 Geo. 3. c. 37. Ir. is ^{26 Geo. 3. c. 37. Ir.} nearly corresponding to the 30 Geo. 2. c. 24. s. 1. Eng. ^{Ir.} *supra*, and enacts, that if any person knowingly or designedly, by false pretence, shall obtain from any person any money, goods, wares or merchandizes, with intent to cheat or defraud any person of the same, or shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with any fictitious name, threatening to accuse any person of any crime punishable by law with death, transportation, pillory, or other infamous punishment, or otherwise by threats to injure such person, with intent to extort or gain money, &c. from the person so threatened to be accused or injured, such person shall be deemed an offender against the law and the peace, and being convicted upon indictment, shall be fined and imprisoned, or be put in the pillory, or publicly whipped, or transported for 7 years, as the court in which such offender shall be convicted shall think fit. ^{Analogous statute in Ireland.}

Nearly allied to swindling is the offence of cheating or deceiving by means of fraudulent conveyances, judgments, &c.: It is a provision of the 13 Eliz. c. 5. Eng. ^{Parties to fraudulent conveyances, with intent to delay, &c. creditors and others, how punished.} (which has been in part stated, vol. 1. p. 516-7.) that all parties to any feigned, covinous, or fraudulent feoffment, gift, grant, alienation, bargain, conveyance, ^{13 Eliz. c. 5. s. 1. 2 & 3. Eng.} bond, suit, judgment, execution, or other thing, (as well of lands and tenements, as of goods and chattels, devised and contrived to delay, hinder, or defraud creditors, and others, of their lawful actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries, and reliefs,) and being privy or knowing of the same, which shall wittingly and willingly put in ure, avow, maintain, justify or defend the same, or any of them

27 Eliz. c. 4.
s. 2 & 3. Eng.

Parties to conveyances made with intent to defraud purchasers, how punished.

* "Or to their or any of their use" added in
10 Car. 1. st. 2.
c. 3. Ir.

10 Car. 1. st. 2.
c. 3. Ir.

them, as true, simple, and done, had, or made *bona fide*, and upon good consideration; or shall alien, or assign any lands, tenements, and hereditaments, goods and chattels, or any of them, or any lease, rent, common, or other profit or charge out of the same lands, &c. shall incur the penalty and forfeiture of one year's value of the said lands, tenements, hereditaments, leases, rents, commons, or other profits of or out of the same; and the whole value of the said goods and chattels; and also so much money as shall be contained in any such covinous and feigned bond; the one moiety to the crown, and the other to the party grieved, to be recovered by action of debt, &c. in any court of record; and also being convicted thereof, shall suffer imprisonment for one half year. And the 27 Eliz. c. 4. Eng. further enacts, (s. 3.) that all parties to feigned, covinous, and fraudulent gifts, grants, leases, charges or conveyances of, in, or out of any lands, tenements or hereditaments, had or made for the intent and of purpose to defraud and deceive such person, &c. as shall purchase in fee-simple, fee-tail, for life, lives or years, the same lands, &c. or any part thereof, or any rent, profit, or commodity out of the same, or any part thereof, or being privy and knowing of the same, or any of them, which shall wittingly and willingly put in ure, avow, maintain, justify, or defend the same, or any of them, as true, simple, and done, had or made *bona fide*, or upon good consideration, to the disturbance or hindrance of the said purchaser, lessee, or grantee, or of their heirs, successors, executors, administrators, or assigns, or such as have or shall lawfully claim any thing by, from, or under them or any of them,* shall incur the penalty of one year's value of the said lands, &c. so purchased or charged; the one moiety to the crown, and the other to the party grieved, to be recovered in any court of record, by action of debt, &c.; and also being thereof convicted, shall suffer imprisonment for one half year. The 10 Car. 1. st. 2. c. 3. Ir. incorporates these several provisions of the 13 Eliz. c. 5. Eng. and 27 Eliz. c. 4. Eng.

III. The

III. The next class of offences against private property is *malicious mischief*: The 37 Hen. 8. c. 6. Eng. enumerates several species of this offence, which malicious and envious persons; &c. minding the hurt, undoing and impoverishment of true and faithful subjects, had of late invented and practised; and enacts, (s. 4.) that if any person maliciously, willingly, or unlawfully bark any apple trees, pear trees, or other fruit trees of any other person, every such offender shall not only forfeit to the party grieved treble damages, to be recovered by action of trespass at common law, but shall also forfeit to the king £10. in name of a fine. But the 9 Geo. 1. c. 22. Eng. which seems to supersede this branch of this act, has been stated, *ante* p. 624. And the 43 Eliz. c. 7. Eng. and 10 Car. 1. st. 2. c. 23. Ir. which are followed by several subsequent statutes relating to the injury or destruction of fruit trees, timber trees, &c. as also of roots, plants, and shrubs, have been also stated, *ante* p. 931 to 951. with reference to the crime of larceny. The following clause of the 37 Hen. 8. c. 6. Eng. *supra*, does not seem to be superseded or repealed. By s. 4. if any person maliciously, willingly, or unlawfully do burn, (or cause, &c.) any heap of wood of any other person, prepared, cut, and felled, or to be prepared, cut, or felled, for making of coals, billets or talwood, he shall not only forfeit to the party grieved treble damages, (to be recovered by action of trespass) but also shall forfeit to the king £10. in name of a fine. No Irish statute contains any such provision.

§ 3.

Persons doing malicious mischief to fruit trees, how punished.

37 Hen. 8. c. 6. s. 4. Eng.

Maliciously burning heaps of wood prepared for making coals, &c. how punished.

The clauses of the 13 Edw. 1. st. 1. c. 46. E. & I. 1 Geo. 1. st. 2. c. 48. Eng. and 6 Geo. 1. c. 16. Eng. which relate to the destroying of fences and enclosures, and which have been stated, *ante* p. 934-5. are to be here also referred to. And by the 9 Geo. 3. c. 29. s. 3. Eng. if any person shall wilfully or maliciously set fire to, burn, demolish, pull down, or otherwise destroy or damage any fence that shall be erected, set up, provided or made for dividing or enclosing any common, waste, or other lands or grounds in pursuance of any act of parliament; such person being convicted of such offence,

Malicious injuries to fences how punished.

9 Geo. 3. c. 29. s. 3. Eng.

or

s. 4.
Limitation for
prosecutions.

41 Geo. 3. c. 109.
s. 28. E.

or of causing or procuring the same to be done, shall be guilty of felony; and the court by or before whom such person shall be tried, shall have power to transport such felon for 7 years. Provided (s. 4.) that every prosecution under this act be commenced within 18 months after the offence. But by the 41 Geo. 3. c. 109. E. (which is an act for consolidating certain provisions usually inserted in acts of enclosure, &c.) in case any person shall wilfully and unlawfully break down, destroy, carry away, or damage any fence, stile, post, rail, gate, bridge, or tunnel, which may be put up or placed under the authority and for the purposes of any such act, every person so offending, and being thereof convicted before any justice of peace for the county in which the lands or grounds to be enclosed shall be situate, on confession, or on proof of the offence by oath of a witness, shall forfeit any sum not exceeding £5.; and every person shall be allowed to give evidence of such offence, notwithstanding he may be a proprietor or occupier of lands within, or an inhabitant of such parish, and notwithstanding he may be the owner of such fence, &c. To these statutes there are none corresponding in Ireland. The 16 Geo. 3. c. 30. Eng. contains a clause (s. 8.) which may be referred to this head; and which has been already stated, *ante* p. 831. And the statutes relating to the offence of breaking down the heads, mounds, or dams of fish ponds, will be found in a preceding chapter, *ante* p. 868-9.

A capital felony
to cut hop-
binds.

6 Geo. 2. c. 37.
s. 6. Eng.

10 Geo. 2. c. 32.
s. 4. Eng.

The provisions of
9 Geo. 1. c. 22.
extended to cut-
ting hop-binds.

The 6 Geo. 2. c. 37. Eng. contains a clause which may be here stated. By s. 6. of this act, if any person shall unlawfully and maliciously cut any hop-binds growing on poles, in any plantation of hops, he shall be guilty of felony without benefit of clergy. And by the 10 Geo. 2. c. 32. s. 4. Eng. all the provisions of the 9 Geo. 1. c. 22. Eng. (*ante* p. 624-5.) for the more speedy and easy bringing the offenders against the said act to justice, and the persons who shall conceal, aid, abet or succour such offenders, and for making satisfaction and amends to persons, their executors and administrators, for

for the damages they shall have sustained, &c. and for the encouragement of persons to apprehend such offenders, and for the better and more impartial trial of any indictment or information for any of the offences committed against the said act; together with all restrictions, limitations, and mitigations by the said act directed; shall extend to the offence of unlawfully and maliciously cutting any hop-binds growing on poles in any plantation of hops. The law of Ireland does not contain any similar provisions.

The 22 & 23 Car. 2. c. 7. Eng. enacts (s. 2.) that *Persons burning stacks of corn, &c. guilty of felony.* where any person shall, in the night time, maliciously, unlawfully, and willingly burn, or cause to be burned or destroyed, any ricks or stacks of corn, hay, or grain, *22 & 23 Car. 2. c. 7. s. 2. Eng.* barns, [or other houses or buildings,] or kilns, every such offence shall be adjudged felony, and the offender shall suffer as in case of felony. Provided (s. 3.) that *s. 3.* no attainder for any offence made felony by this act, shall work any corruption of blood, loss of dower, or *Proviso.* disinheritance of heirs. And by s. 4. in case any person who shall be convict or attainted of any the offences *s. 4.* made felony by this act, (to avoid judgment of death, or execution thereupon for such his offence,) shall make his *The party may elect to be transported for 7 years.* election to be transported beyond seas, to some of his majesty's plantations, then the justices of assize, *oyer* and *terminer*, gaol-delivery, or justices of the peace, before whom such offender shall be so convict, &c. and every of them respectively, shall cause such judgment to be entered against such offender, that he be transported beyond seas to some of his majesty's plantations, in the said judgment to be particularly mentioned, for 7 years; and in pursuance of the said judgment, the sheriff or sheriffs of the county or city where such offender shall be so convict or attainted, shall cause him to be conveyed and embarked to be transported as aforesaid: and if such offender shall return into this kingdom before the expiration of the said 7 years, he shall suffer death as a felon, and as if no such election had been made. And by s. 6. upon the *Felony to return before 7. years.* complaint

s. 6.

*Jurisdiction of
justices of peace
as to such of-
fences.*

complaint and request of the party injured in any such manner, any 3 justices of peace for the county, &c. where such offence shall be committed, (whereof one to be of the *quorum*) shall inquire, as well by the oaths of 12 men of the same county, as by examination of witnesses upon oath, or by any lawful means which to them shall seem meet, of and concerning any the offences aforesaid, and issue out warrants as well for the summoning of jurors, as for the apprehending of all such persons as shall be thereof suspected, and take their examination touching the same, and also cause all such other persons as to them shall seem likely to make discovery thereof, to appear before them, and give information upon oath concerning the premises; so as no person examined by said justices shall be convicted, or in any wise proceeded against, by reason of any offence concerning which he shall be so examined as a witness, and shall upon such his examination make a true discovery thereof. And in case any person, who by the said justices be thought likely to make discovery as aforesaid, shall refuse to appear or to be examined as a witness, being duly summoned by said justices, it shall be lawful for said justices to commit the party so refusing to the common gaol for said county, until he shall submit to be examined upon oath, concerning his knowledge touching such offence, or the offenders by whom the same was committed. Provided (s. 7. that no person punished

s. 7.

Proviso.

9 Geo. 1. c. 22.
Eng.

*Clergy taken
away.*

4 & 5 Ph. & M.
c. 4. Eng.

43 Geo. 3. c. 58.
E. & I.

29 Geo. 2. c. 6.
s. 3. Ir.

by virtue of this act, shall be punished for the same offence by any other act or law, nor questioned for the same, unless proceeded against within 6 months after the offence. The 9 Geo. 1. c. 22. Eng. which relates also to this offence, and takes away the benefit of clergy from such offenders, has been already stated, *ante* p. 624. And it may be proper here also to refer to the 4 & 5 Ph. & M. c. 4. Eng. and 43 Geo. 3. c. 58. E. & I. *ante* p. 919. 920. By the 29 Geo. 2. c. 12. s. 3. Ir. any person who shall wilfully or maliciously set fire to any [house, out-houses, barn, or stable,] or to any hay-yard, stack, or rick of corn, straw, hay, or turf, [or to any

any ship or boat,] although the same be not burned; or shall be procuring, aiding, or assisting in any of said offences, shall be guilty of felony without benefit of clergy. Provided (s. 4.) that nothing herein shall extend to any person who shall burn the turf which shall be cut on his landlord's turbary, without leave first obtained for the same. And by s. 5. the inhabitants of every barony, as well protestants as papists, shall make full satisfaction to every person, his executors and administrators, for the damage which he shall have sustained by such injuries as in s. 3. which shall be committed in such barony: and every person who shall sustain damages by any of the felonies in s. 3. may sue for and recover such damages (not exceeding £50.) against any one or more of the inhabitants of said barony; and if such person shall recover and obtain execution against any inhabitant or inhabitants, the other inhabitants of said barony shall be proportionably taxed towards an equal contribution for the relief of such inhabitants, &c. which tax shall be levied in such manner as heretofore used for the levying money. But by s. 6. no person shall be enabled to recover any damages by virtue of this act, unless he, by himself or his servant, within 2 days after such damage done him, shall give notice of such felony unto some of the inhabitants of some town, village, or hamlet in the barony, near to the place where such fact shall be committed; and within 4 days after such notice, give notice to the high constable of the barony of the said offence; and shall also give in his examination upon oath, or the examination upon oath of his servant that had the care of his house, &c. before some justice of peace of the county where such fact shall be committed, inhabiting within the said barony, &c. or near to the same, whether he do know the persons who committed said fact, or any of them; and in such case such examinant shall be bound by recognizance to prosecute such offender according to law. Provided (s. 7.) that when any of the offenders shall be convicted of any such felony as aforesaid, at the next assizes for such county, no barony, nor inhabitant, shall be liable to make

Analogous provisions in Ireland.

s. 4.

Proviso as to turf.

s. 5.

Inhabitants of barony to make compensation for damage.

s. 6.

Proviso as to notices required.

Examinations on oath also previously required.

s. 7.

If offender convicted no satisfaction from barony.

s. 8.

*Reward to prosecutor.*19 & 20 Geo. 3.
c. 37. s. 1 & 2. Ir.*Who shall make compensation.*9 W. 3. c. 9.
s. 2. Ir.*Mode of recovering such compensation.*

make satisfaction to the party injured. And for the more effectual discovery of such felons, this act provides (s. 8.) that any person who shall discover and prosecute to conviction any such felon, shall be entitled to a reward of £10. to be recovered as aforesaid against the inhabitants of the barony in which such offence shall be committed; and if such discoverer, or prosecutor, be a party concerned in such felony, he shall not only be entitled to said reward, but also to his pardon for any felony before that time by him committed against this act. And the 19 & 20 Geo. 3. c. 37. Ir. further provides, (s. 1.) that the inhabitants of every barony or county, or in cases of uncertainty as to the place, the inhabitants of both contiguous baronies or counties, shall make full satisfaction for all malicious burning of houses, barns, haggards, corn, or other articles or effects, by any person, to the party injured, on the terms and conditions specified in the 7 W. 3. c. 21. Ir. and 9 W. 3. c. 9. Ir. (which will be presently stated) the same to be paid indiscriminately by protestants and papists, and all the inhabitants of such county and barony, in proportion to their respective properties. And by s. 2. where the damages shall not exceed £100. the inhabitants of the barony, or (in cases of uncertainty) of the contiguous baronies, wherein the said facts shall be committed, and not of the counties at large, shall make satisfaction for the same as aforesaid; but where the damages shall exceed £100. then the inhabitants of the county, or (in cases of uncertain situation) of the contiguous counties at large, shall make satisfaction for the same. The 9 W. 3. c. 9. Ir. (which amends the 7 W. 3. c. 21. Ir. and is referred to by the 19 & 20 Geo. 3. c. 37. s. 1 & 2. *supra*) provides (s. 2) that where any person shall be entitled to recover amends or satisfaction, he shall or may pursue his remedy at the next assizes of said county where such offence was committed, before the judge of assize, and grand jury of the county to be impanelled and sworn, in manner following: *viz.* the person so damnified shall, at the said assizes, deliver to the judge of assize his petition praying such satisfaction, and shall set forth in such

such petition the time and place when and where such injury was done to him, the particular damages suffered by him, and the particular value thereof, and by what number of persons such injury was done, and of what religion such offender or offenders, or any of them, were; with the names and descriptions of such of the said offenders as he doth know, and such particular description of such others of them as he can give; and the said matter shall, thereupon, be examined by such judge of assize in open court, in the presence of such grand jury, on the oath of the party injured, and such other evidence as can be produced touching said facts; and the said grand jury shall, thereupon, make such presentment touching the same, and of such sum as the person so injured ought to receive for such injury, [*and by what persons, whether papists or protestants, and in what proportions for each of them the same ought to be paid;] for which sum so presented process shall issue, in the nature of an execution, against any inhabitant of the same county chargeable therewith; and the inhabitants of said county, who by said presentment shall be made chargeable with any part of said damages, shall be rateably taxed towards an equal contribution for relief of such inhabitant against whom such process is had; which tax shall be levied in such manner as is prescribed by the 10 & 11 Car. 1. c. 13. Ir. “An Act for the following hue and cry.” But by the 7 W. 3. c. 21. s. 4. Ir. which is amended by the 19 & 20 Geo. 3. c. 37. s. 3. Ir. no person shall recover any damages unless he, by himself or his servants, [†within 6 days after such injury done,] shall give notice thereof unto some of the inhabitants of some town, village, or hamlet, near unto the place where any such fact shall be committed; and also give in his examination upon oath, or of his servant or servants, that were in his house, or that had the care of his corn, stock, or goods, before some justice of peace of the county where such fact shall be committed, inhabiting within the barony where such fact shall be

Money presented how levied.

7 W. 3. c. 21, s. 4. Ir.

† By the 19 & 20 Geo. 3. c. 37, Ir.

VOL. II.

3 U

committed

* This clause seems to be virtually repealed by the 19 & 20 Geo. 3. c. 37. *supra.*

9 W. 3. c. 9.
s. 3 & 4. Ir.

Notice and examination required.

(*19 & 20 Geo. 3.
c. 37. s. 3. Ir.)

When traverse allowed.

*By 19 & 20
Geo. 3. c. 37.
s. 4. Ir.

Costs of traverse.

How levied.

9 W. 3. c. 9.
s. 5. Ir.

Presentments not removeable by certiorari, &c.

committed, or near unto the same, whether he do know the persons who committed such fact, or any of them; and if upon such examination it be confessed that he do know any person that committed said fact, he shall be bound by recognizance to prosecute such offender. And by the 9 W. 3. c. 9. s. 3 & 4. Ir. (as amended by the 19 & 20 Geo. 3. c. 37. s. 3 & 4. Ir.) it is provided, that the person intending to proceed to recover satisfaction, shall leave notice in writing with the high constable of the barony, of such his intention, [*within 6 days after such damage or injury done,] to the end that the high constable may give public notice to the inhabitants of such barony, that they may have an opportunity to bring evidence for themselves, and oppose the making such presentment, or otherwise traverse such presentment, if they shall think fit. And provided also, that any person who shall find himself aggrieved by any presentment, in case the sum to be presented do exceed £5. may at said assizes traverse the same; which traverse shall be tried at the same or the next assizes, as the judge who shall allow the same shall think fit; and if on such traverse the issue shall be found for the traverser, such presentment shall be discharged; [*and it shall be lawful for the judge who shall try such traverse, to award, by rule for that purpose, costs to the party for whom such issue is found, against the other party in such traverse, in any sum not exceeding £12.; and said judge may direct an order to issue forthwith (in nature of an execution) against the goods of such party; which order the sheriff of said county shall execute, in the same manner, and under the like restitutions and penalties of executions in ordinary cases against the goods of defendants.] And it is a further provision of the 9 W. 3. c. 9. Ir. that no such presentment to be made shall be removed by *certiorari*, or the prosecution otherwise delayed than by such traverse as aforesaid; and that for such time only as shall be necessary for the trial of such traverse; nor shall any such presentment be quashed for any defect in form.

The 36 Geo. 3. c. 9. Eng. recites, that divers persons have assembled themselves in great numbers, and committed

mitted great violences with intent to hinder the passage of corn and grain from place to place; and therefore enacts, that if any person shall wilfully and maliciously beat, wound, or use any other violence to or upon any person, with intent to deter or hinder him from buying of corn or grain in any market, or other place within the kingdom; or shall unlawfully stop or seize any wheat, flour, malt, or other grain, in or on the way to or from any city, market town, or place in this kingdom; or shall wilfully and maliciously break, cut, or destroy any waggon, cart, or other carriage, wherein any such wheat, &c. shall be loaded, or the harness of any horse drawing or carrying the same, or shall unlawfully take off from any such carriage, or drive away, kill, or wound any such horse, or unlawfully beat or wound the driver of any such waggon, cart, or other carriage, or horse, so loaded, with intent to stop such wheat, &c.; or shall, by cutting of the sacks, or otherwise, scatter or throw abroad any such wheat, &c. or shall take, or carry away, destroy, spoil or damage the same, or any part thereof, every such person, being thereof convicted before any 2 justices of peace of the county, &c. wherein such offence shall be committed, or before the justices of peace in open sessions, shall be sent to the common gaol or house of correction, to be kept to hard labour for any time not exceeding 3 months, nor less than 1 month. And by s. 2. if any person so convicted shall commit any of the offences aforesaid a 2nd time, or if any person, with intent to hinder any corn, &c. from being lawfully carried or removed from any place whatsoever, shall wilfully and maliciously pull, throw down, or otherwise destroy any store-house or granary, or other place in which corn, &c. shall be then kept; or shall unlawfully enter any such store-house, &c. and take and carry away any corn, &c. therefrom, or shall throw abroad or spoil the same, or any part thereof, or shall unlawfully enter on board any ship, barge, boat or vessel, and wilfully and maliciously take and carry away, cast or throw out therefrom, or otherwise spoil or damage any corn, &c. every such offender shall be guilty of felony, and be transported for 7 years in like manner as other felons; and if any such

Using violence to prevent the free passage or purchase of corn &c. how punished.

36 Geo. 3. c. 9. s. 1. Eng.

s. 2.

Persons so offending a 2nd time, or destroying, &c. store-houses, &c. guilty of felony, and transported.

*Attainder no
corruption of
of blood.*

s. 3.

*Inhabitants of
the hundred
shall make satis-
faction for such
injuries.*

*Compensation
how sued for.*

s. 4.

*Notice and exa-
mination re-
quired.*

s. 5.

offender so transported shall return into this kingdom before the expiration of said 7 years, he shall suffer death as a felon without benefit of clergy: provided that no attainder for any offence made felony by this act, shall work any corruption of blood, loss of dower, or disinherittance of heir. And by s. 3. the inhabitants of every hundred in England wherein any such offence shall be committed, shall make full satisfaction to every person, their executors, &c. for the damage they shall have sustained by any injury or violence done to their properties by any offender against this act; and every person who shall so sustain damages in his property, may sue for and recover the same (not exceeding £100.) against the said hundred; such damages to be sued for, levied, and raised, in such manner as prescribed, in cases of actions of robberies on the highway, in and by the 27 Eliz. c. 13. Eng. except so much thereof as relates to giving, leaving, or publishing notice, or making fresh suit, and hue and cry, or any other matter otherwise provided for by this act. Provided (s. 4.) that no person shall be enabled to recover any damages by virtue of this act, unless he, by himself or his servant, within 2 days after such damage done him, shall give notice of such offence to one of the constables of the hundred, or to the constable, borsholder, headborough, or tithingman of the town, parish, village, hamlet or tithing, in or near which such fact shall be committed, and shall, within 10 days after such notice, give in his examination upon oath, or the examination of his servants, being present at the time of the fact committed, or having the care of such his property to which such damage shall be done, before any justice of peace of the county, &c. where such fact shall be committed, whether he do know the person or persons that committed such fact, or any of them; and if upon such examination it be confessed that he do know any person that committed said fact, then he shall be bound by recognizance to prosecute such offender. Provided (s. 5.) that where any one of such offenders shall be apprehended and convicted within 12 months after any such offence committed, no hundred or franchise shall be liable to make satisfaction

to

to the party injured for the damages he shall have sustained: provided also that no person who shall sustain any damage by any offence committed contrary to this act, shall be enabled to bring any action against any hundred where such offence shall be committed, after the expiration of one year, nor unless the party sustaining such damage shall commence his suit within 2 years after the offence. And by s. 6. nothing in this act shall abridge any provision already made for the punishment of any offence mentioned in this act: provided also that no person who shall be punished by virtue of this act, shall be punished for the same offence by any other law.

The 11 Geo. 2. c. 22. Eng. which relates to this species of malicious mischief, but committed with intent to hinder the exportation of corn, has been already stated, *ante* p. 636-7-8. and should have been reserved for this place, or followed by the 36 Geo. 3. c. 7. *supra*. Analogous to these statutes is the 11 Geo. 3. c. 7. Ir. which recites, that many disorderly persons have of late frequently assembled themselves in great numbers, and committed great violences, &c. with intent to hinder the exportation of corn or potatoes, or the carriage thereof from one part of this kingdom to another; and enacts, that if any person shall wilfully and maliciously beat, wound, or use other violence to or upon any person, with intent to deter or hinder him from buying of corn, or grain, or potatoes, in any market or other place within this kingdom; or shall unlawfully stop or seize upon any waggon, cart, or other carriage, or horse loaded with wheat, flour, meal, malt, or other grain, or potatoes, in or on the way to or from any city, market-town, sea-port, or other usual place of shipping corn or potatoes in this kingdom; or wilfully and maliciously break, cut, separate, or destroy the same, or any part thereof, or the harness of the horses drawing the same; or shall unlawfully take off, drive away, kill or wound any of such horses, or unlawfully beat or wound the driver of such waggon, cart, or other carriage or horse so loaded, in order to stop the same; or shall, by cutting the sacks, or otherwise, scatter or throw abroad such wheat, flour, meal, malt, or other grain, or potatoes, or shall take

No action against hundred where an offender convicted within 12 months.

Limitation for actions.

s. 6.

Proviso.

11 Geo. 2. c. 22. Eng.

11 Geo. 3. c. 7. s. 1. Ir.

Malicious and violent injuries with intent to hinder the exportation of corn, &c. or carriage thereof, &c. from one part of Ireland to another, how punished.

and

and carry away, spoil or damage the same, or any part thereof, or shall distribute the same, or compel the owner or his servant, or the carrier of such wheat, &c. to distribute or otherwise depart from the possession thereof, or of any part thereof, contrary to his consent; every such person, being thereof convicted before any 2 justices of the county, &c. wherein such offence shall be committed, or before the justices of peace in open session, (who are hereby authorized summarily and finally to hear, &c. the same,) upon the confession of the party, or upon the oath of any person, shall be sent to the common gaol, or house of correction, to be kept to hard labour, for any time not exceeding 3 months, nor less than 1 month, and shall by said justices be also ordered to be once publicly whipped, by the master or keeper of such gaol or house of correction, in such city, market, town, or sea-port, in or near to which such offence shall be committed, on the first convenient market-day, at the market-cross, or market-place there, between the hours of 11 and 2. And by s. 2. if any such

*Persons so of-
fending a 2nd
time, or destroy-
ing, &c. store-
houses, &c.
guilty of felony,
and transported.*

person so convicted shall commit any of said offences a 2nd time; or if any person shall wilfully and maliciously pull, throw down, or otherwise destroy any store-house or granary, or other place, where corn shall be then kept in order to be exported, or to be sent from one part of this kingdom to another coastways, or shall unlawfully enter any such store-house, &c. and take and carry away any corn, flour, meal, or grain therefrom, or shall throw abroad or spoil the same, or any part thereof; or shall unlawfully enter on board any ship, barge, boat, or vessel, and shall wilfully and maliciously take and carry away, cast or throw out therefrom, or otherwise spoil or damage any meal, flour, wheat, or other grain therein, intended for exportation, or to be sent coastways as aforesaid; such offender shall be guilty of felony, and be transported for 5 years, in like manner as other felons; and if any such offender so transported shall return into this kingdom before the expiration of 5 years, he shall suffer death as a felon without benefit of clergy. Provided (s. 3.) that no attainder for any offence made felony by this act, shall work any corruption of blood

s. 3.

blood, loss of dower, or disinherittance of heir. The *Attainder no corruption of blood, &c.*
 23 & 24 Geo. 3. c. 20. Ir. has been stated, *ante* p. 639.
 and may be here also referred to.

It is one of the provisions of the 37 Hen. 8. c. 6. Eng. *Penalty for burning wains or carts laden with coals, &c.*
 that any person who shall maliciously, willingly, and un-
 lawfully burn, (or cause, &c.) any wain or cart laden or
 to be laden with coals, or other goods or merchandizes *37 Hen. 8. c. 6. Eng.*
 of any other person, he shall not only forfeit to the
 party grieved treble damages, (to be recovered by ac-
 tion of trespass,) but also shall forfeit to the king £10,
 in name of a fine. To which there is no corresponding
 statute in Ireland.

It is also a provision of the 37 Hen. 8. c. 6. Eng. *Maliciously cutting out the tongues of beasts how punished.*
 that if any person maliciously, unlawfully, and willingly
 cut out (or cause, &c.) the tongue of any tame beast of
 any other person, the said beast then being in life, he *37 Hen. 8. c. 6. s. 4. Eng.*
 shall not only forfeit to the party grieved treble da-
 mages, (to be recovered by action of trespass at common
 law,) but also shall forfeit to the king £10. in the name
 of a fine. And the 22 & 23 Car. 2. c. 7. Eng. to pre- *22 & 23 Car. 2. c. 7. s. 1 & 2. Eng.*
 vent also such malicious injuries by evil disposed per-
 sons "intending the ruin and impoverishment of their
 fellow subjects" enacts, that if any person shall, in the
 night-time, maliciously, unlawfully, and willingly, kill *Persons maliciously killing cattle in the night time, guilty of felony.*
 or destroy any horses, sheep, or other cattle, of any per-
 son, such offence shall be adjudged felony, and the of-
 fender shall suffer as in case of felony. And by s. 5. any *s. 5.*
 person who shall in the night-time, maliciously, unlaw-
 fully, and willingly, maim, wound, or otherwise hurt any
 horses, sheep, or other cattle, whereby the same shall *Treble damages for maiming of cattle in the night time.*
 not be killed or utterly destroyed, shall forfeit to the par-
 ty grieved treble damages, to be recovered by action of
 trespass, or upon the case, at common law. And the other
 clauses of this statute, *ante* p. 1009. are to be here also
 referred to. The 9 Geo. 1. c. 22. Eng. which relates also *9 Geo. 1. c. 22. Eng.*
 to this offence, has been already stated, *ante* p. 624-5-6.
 The first statute in Ireland to prevent malicious injuries
 to cattle, is the 9 Ann. c. 11. Ir. which enacts (s. 3.) that *9 Ann. c. 11. s. 3. Ir.*
 if any person maliciously, unlawfully, and willingly
 maim, kill, or destroy any horses, sheep, cows, or
 other *Maiming, &c. cattle, a felony.*

*Proviso.*2 Geo. 1. c. 22.
Ir.*Such offenders
deprived of be-
nefit of clergy.*

s. 2.

*Reward to be
presented for
discoverer or
prosecutor.*17 Geo. 2. c. 5.
Ir.29 Geo. 2. c. 12.
s. 3. Ir.*Accessaries also
guilty capitally.**Setting fire to
any mill a capi-
tal felony.*9 Geo. 3. c. 29.
s. 2. Eng.

s. 4.

*Limitation for
prosecutions.**Assault with
intent to tear,
&c. clothes, a
felony.*

other cattle, of any person, such offence shall be adjudged felony, and the offender shall suffer as in cases of felony: provided nothing herein shall extend to the gelding stone horses going at large. But by the 2 Geo. 1. c. 22. Ir. where any person shall be convicted of malicious, unlawful, and wilful maiming, killing or destroying any horses, sheep, cows, or other cattle, according to the 9 Ann. c. 11. *supra*, such person shall suffer death without benefit of clergy. And by s. 2. it shall be lawful for the grand juries of the several counties, by presentment to raise (as other country charges are raised) such sum as they shall think fit, not exceeding £10. for any one person, to be paid to any person who shall discover any such offender as aforesaid; which sums shall be paid to such discoverer and prosecutor, in such manner and proportion as the grand jury shall in their presentments direct, after the conviction of such offenders.

The 17 Geo. 2. c. 5. Ir. *ante* p. 980 1. is to be here also referred to. And the 29 Geo. 2. c. 12. s. 3. Ir. further enacts, that if any person shall be procuring, aiding, or assisting in the wilful or malicious killing, maiming, or houghing any horses, horned cattle, or sheep, he shall be guilty of felony without benefit of clergy. And the other clauses of this act (s. 5 to 8.) *ante* p. 1010. are to be here also referred to.

The 9 Geo. 3. c. 29. Eng. which has been in part stated, *ante* p. 636. with relation to the offence of riot, enacts, (s. 2.) that if any person shall wilfully or maliciously burn or set fire to, any wind-saw-mill, or other wind-mill, or any water-mill, or other mill, he shall be guilty of felony without benefit of clergy. But by s. 4. such prosecutions shall be commenced within 18 months after the offence. The 23 & 24 Geo. 3. c. 20. s. 1 & 7. Ir. *ante* p. 640-2. which regards several offences in respect to mills, does not extend to mere acts of malicious mischief, when unaccompanied with a riot or tumultuous assembly.

Next as to malicious mischief with relation to manufactures: To this head is to be referred the 6 Geo. 1. c. 23. Eng. which enacts (s. 11.) that if any person shall wilfully
and

and maliciously assault any person in the public streets or highways, with an intent to tear, spoil, cut, burn, or deface, and shall tear, &c. the garments or clothes of such person, he shall be guilty of felony, and liable to the pains of felony; and the court before whom he shall be tried shall have power of transporting him for 7 years, upon the like terms as directed by this act, or by the 4 Geo. 1. c. 11. Eng. which will be more fully noticed in another place. It is one of the provisions of the 4 Geo. 3. c. 37. Eng. (which is an act for the better establishing a manufactory of cambricks and lawns, &c.) that if any person shall, by day or night, break into any house, shop, cellar, vault, or other place or building, or by force enter into any house, &c. with intent to [steal,] cut, or destroy any linen-yarn, or linen-cloth, or any manufacture of linen-yarn, belonging to any manufactory, or the looms, tools, or implements used therein; or shall wilfully or maliciously cut in pieces or destroy any such goods, either when exposed to bleach or dry; such offender shall be guilty of felony without benefit of clergy. And by the 22 Geo. 3. c. 40. Eng. if any person shall, by day or night, break into any house or shop, or enter by force into any house or shop, with intent to cut or destroy any serge or other woollen goods in the loom, or any tools employed in making thereof; or shall wilfully and maliciously cut or destroy such serges, &c. in the loom, or on the rack; or shall burn, cut, or destroy any rack on which such serges, &c. are hanged in order to dry: or shall wilfully and maliciously break or destroy any tools used in the making any such serges, &c. not having the consent of the owner so to do; such offender shall be guilty of felony without benefit of clergy. And by s. 2 if any person shall, by day or night, break or enter by force into any house or shop, with intent to cut or destroy any velvet, wrought silk, or silk mixed with any other materials, or other silk manufacture, in the loom, or any warp or shute, tools, tackle, or utensils; or shall wilfully and maliciously cut or destroy any velvet, wrought silk, or silk mixed with any other materials, or other silk manufacture, in the loom,

6 Geo. 1. c. 23.
s. 11. Eng.

4 Geo. 3. c. 37.
s. 16. Eng.

Forcible entry into any manufactory with intent to cut, &c. linen, or linen yarn, a capital felony.

Or destroying any such goods on the bleach.

22 Geo. 3. c. 40.
s. 1. Eng.

Forcible entry into any house, &c. with intent to destroy woollen goods or tools; or destroying such goods in the loom, &c. or the tools, a capital felony.

s. 2.

Persons entering by force into any house or shop with intent to cut, &c. any velvet, &c. guilty capitally.

Or cutting, &c. the same.

or

*Or destroying
the tools, &c.*

or any warp or shute, tools, tackle, or utensils, prepared or employed in or for the making thereof; or shall wilfully and maliciously break or destroy any tools, tackle, or utensils, used in or for the weaving or making of any such velvet, wrought silk, or silks mixed with any other materials, or other silk goods, or silk manufacture, not having the consent or the owner so to do; every such offender shall be guilty of felony without benefit of clergy.

s. 3.

*Entering by
force into any
house or shop,
to cut, &c. any
linen or cotton,
&c. or the tools,
&c. a capital
felony.*

And by s. 3. if any person shall, by day or night, break into any house or shop, or enter by force into any house or shop, with intent to cut and destroy any linen or cotton, or linen and cotton mixed with any other materials, or other linen or cotton manufactures, in the loom, or any warp or shute, tools, tackle, and utensils, prepared for or employed in the making thereof; or shall wilfully and maliciously break and destroy any tools, tackle, or utensils, used in or for the carding, spinning, weaving, preparing, or making, in any way whatever, any such linen or cotton, or linen or cotton mixed with other materials, or other linen and cotton goods, or linen and cotton manufactures, not having the consent of the owner so to do; every such offender shall be guilty of felony without benefit of clergy. And by the 28 Geo. 3.

28 Geo. 3. c. 55.
s. 4. Eng.

*Persons enter-
ing by force into
any house or
shop to cut, &c.
frame-work
knitted pieces,
&c. or tools,
&c. guilty of
felony, and
transported.*

c. 55. s. 4. Eng. if any person shall, by day or night, enter by force into any house, shop, or place, with an intent to cut or destroy any frame-work-knitted pieces, stockings, or other articles or goods being in the frame, or upon any machine or engine thereto annexed, or therewith to be used, or prepared for that purpose; or shall wilfully and maliciously cut or destroy any frame-work-knitted pieces, stockings, or other articles or goods, being in the frame, or upon the machine or engine as aforesaid, or prepared for that purpose; or shall wilfully and maliciously break, destroy, or damage any frame, machine, engine, tool, instrument, or utensil, used in and for the working and making of any such frame-work-knitted pieces, stockings, or other articles or goods in the hosiery of frame-work-knitted manufactory, not having the consent of the owner so to do; or break or destroy any machinery contained in any mill
used

used or employed in the preparing or spinning of wool or cotton for the use of the stocking frames, every such offender shall be guilty of felony, and be transported for any term not exceeding 14 nor less than 7 years.

By the 31 Geo. 2. c. 10. s. 13. Ir. if any person shall, 31 Geo 2. c. 10. s. 13. Ir. by day or night, break into or enter by force into any

house or shop, with intent to cut or destroy any fustian, cotton, woollen, mohair, or silk goods, in the loom, or any tools employed in the making thereof; or shall wilfully and maliciously cut or destroy any fustian, cotton, woollen, mohair, or silk goods, in the loom or on the rack, on which any of the aforesaid goods are hanged in order to dry; or shall wilfully and maliciously break or destroy any tools used in the making of fustian, cotton, woollen, mohair, and silk goods, not having the consent of the owner so to do, such offender shall be guilty of felony without benefit of clergy. And the 3 Geo. 3. c. 34. Ir. enacts (s. 25.) that if any person shall, by day or night, break into any house or shop, with intent to cut or destroy any linen, hempen, or cotton yarn, or any linen, hempen, or cotton cloth, or any manufacture made or mixed with linen, cotton, or hempen yarn, or any tools employed in making thereof, or any bay or woollen yarn, or any manufacture wherein bay or woollen yarn shall be used or wrought up, or any tools employed in the making thereof; or shall wilfully or maliciously cut or destroy any linen, or hempen, cotton, or woollen manufacture, or any manufacture made or mixed with linen, hempen, cotton, or woollen yarn; or shall wilfully and maliciously break and destroy any tools used in making or manufacturing of the same, not having the consent of the owner so to do, such offender shall be guilty of felony without benefit of clergy. And by s. 42. if any person shall wilfully and maliciously damage any linen, hempen, or cotton cloth, or any manufacture made or mixed with linen or hempen yarn, in any bleach-yard, by making holes or rents therein, or by throwing gravel, sand, or dirt into any rubbing-boards, furnace, or wash-mill, which shall be used in such bleach-yard, or by mixing dye-stuffs, or other im-

Entering by force into any house or shop to cut, &c. any cotton, woollen, or silk, &c. or tools, a capital felony.

Or cutting, &c. the same.

Or destroying the tools.

3 Geo. 3. c. 34. s. 25. Ir.

Breaking any house, to cut, &c. linen, hempen, or cotton yarn, or cloth or tools; or cutting &c. the same, a capital felony.

s. 42.

Persons damaging linen, hempen, or cotton cloth, in any bleach yard, guilty of felony, and transported.

proper

proper materials, with the lyes or sours which shall be used in such bleach-yard, or in any other manner; every such person, being convicted upon indictment, shall be guilty of felony, and be transported for 7 years. The

17 & 18 Geo. 3. c. 33. s. 1. Ir.

Persons destroying linen, &c. in wear, or in the bleach-green, &c. guilty of felony, and transported.

s. 2.

Proviso as to substituting hard labour for transportation.

Accessories punished in like manner.

19 & 20 Geo. 3. c. 19. s. 5. Ir.

Entering by force into any house or shop to cut, &c. any manufacture or tools, or destroying the same, a capital felony.

17 & 18 Geo. 3. c. 33. Ir. further enacts, that every person who shall wilfully or maliciously cut, or otherwise destroy any plain, painted, stained or printed linens, cottons, lawns, or muslins, or any manufactured goods of wool, silk, or hair, when in wear or use of any person, or in the bleach-green, ware-house, shop, or other place; or shall destroy any wool; shall be guilty of felony, and liable to the pains, &c. of felony; and the court before whom such person shall be tried, shall have power to transport such felon for 7 years, in like manner as other felons: Provided (s. 2.) that in case any law shall be passed in this kingdom, to authorize for a limited time the punishment by hard labour of persons, who for certain crimes are or shall become liable to be transported, it shall be lawful (if such court shall think fit) in the place of such punishment by transportation, to order and adjudge that such person shall be punished by being kept to hard labour, in such places and manner as shall be directed by such law, for such term of years as the court shall think fit: provided the same shall in no case be more than 7 years. And every person who shall be aiding, abetting, or assisting in wilfully or maliciously cutting or otherwise destroying any plain, painted, stained, or printed linens, cottons, lawns, or muslins, or any manufactured goods of wool, silk, or hair, in wear or use of any person, or in the bleach-green, ware-houses, shops, or other place in this kingdom, or shall destroy any wool, shall be liable to the same punishment, as if he had wilfully or maliciously cut or destroyed the same. And by the 19 & 20 Geo. 3. c. 19. s. 5. Ir. if any person shall, by day or night, break into, or enter by force into any house or shop, with intent to cut or destroy any manufacture of iron, leather, or other manufacture made within this kingdom for public sale, or any tools employed in the making thereof; or shall wilfully or maliciously cut or destroy any of said manufactures,

manufactures, or wilfully and maliciously break or destroy any tools used in the making of the same; or shall so break or destroy any mill, engine, or device for the making or perfecting, or to be employed in any manufacture; or shall aid, assist, or abet any person concerned therein, or shall so break, injure, or destroy any such manufactures on the highway, or at any public-house or inn, where the same may be carried towards the city of Dublin, or the port thereof, or any other port or place for consumption, or for exportation, not having the consent of the owner so to do; or shall wilfully and maliciously maim or wound any person concerned in carrying on any manufacture on account of his working at or being concerned in the same, or any person concerned in using, carrying, or protecting any of said manufactures, or any such mill, engine, or device; [*or shall in consequence of any combination, or the breach of any order, rule, or regulation of the same, horse, colt, carry in procession, wound, or maim, or endanger the life of any journeyman, apprentice, or other person employed in any manufacture;] such offender shall be guilty of felony without benefit of clergy. And this act recites (s. 6.) that several persons, as well by night as in the day-time, have in a riotous, disorderly, and tumultuous manner assembled themselves, and have taken on themselves to obstruct the erecting or making or working of gigg-mills, swivel-looms, and other machines, engines, and devices, for the cheaper, more expeditious, and better finishing of manufactures; and have also taken on themselves to destroy or damage such gigg-mills, &c. as also the goods or manufactures made in the same, and the materials collected for working therein; and have also destroyed woollen cloths and blankets, [beef and pork barrels,] and other goods of a like nature, when brought or bringing into the city of Dublin, on account that the same had not been made in the city of Dublin, or the suburbs thereof; and have also

*Or destroying
mills, &c.*

*Accessaries also
guilty capitally.*

*Wounding, &c.
any manufac-
turer, &c. for
working, &c. a
capital felony.*

s. 6.

*Satisfaction for
injuries to ma-
nufactures, &c.
how made and
recovered.*

* Several clauses of this act which are stated in this place, would have been more properly referred to the heads of riot and combination, *ante*, p. 639. 725.

*Petition in
what form.*

How examined.

also destroyed yarn, and other productions of this country for exportation or consumption, or to be wrought up or made use of in some other manufacture; and therefore enacts, that satisfaction and amends may be made, in manner herein after mentioned, to every person, his executors, &c. for every injury which shall be done against his person, habitation, possessions, property, goods or chattels, by any offender against this act, or in any of the particulars herein before mentioned; and such person, &c. may sue for and recover such amends, at the next assizes to be held for the county where such offence was committed, (or if in the county of Dublin, at the next presenting term, or if in the city of Dublin, at the next quarter sessions for said city,) by exhibiting to the judge of assize, (or to the court of king's bench, for the county of Dublin, or to the recorder of the city of Dublin, if at such quarter sessions) his petition praying such satisfaction for the injury sustained as aforesaid, and therein setting forth particularly the injury or damage done to his person, &c. and the particular value thereof, by what number of persons he believes such injury was done, with the names or description of such of said offenders as he shall know, and such particular description of such others as he can give; and the matter, thereupon, shall be examined by such judge of assize, (or court of K. B. or recorder,) in open court, in the presence of the grand jury impanelled and sworn at such assizes, (or presenting term or sessions,) on the oath of the party so assaulted or injured, and such other evidence as can be produced touching the said offences; and if such judge of assize* shall be of opinion that the person preferring such petition hath fully proved the several matters aforesaid, and the value of the injury, so as to entitle him to satisfaction, the said grand jury shall, pursuant to the directions of such judge, present such sum as the person so assaulted or injured ought in their opinion to receive; to be raised either on the county, county of a city or town, barony, town or towns, parish

* "Court of king's bench or recorder," here omitted.

parish or parishes, in or near which such offence shall have been committed, and in such proportions as they shall think fit: which sums shall be applotted and raised as other public money presented at said assizes, (or presenting term or sessions,) shall be applotted, &c. *Provided (s. 7.)* that if any person shall find himself aggrieved by any presentment to be made in pursuance of this act, such person, in case the sum presented do exceed £5. shall or may at the said assizes, &c. traverse the same: which traverse shall be tried at the same or the next assizes, &c. as the judge who shall allow the same shall think fit; and if on such traverse the issue shall be found for the traverser, such presentment shall be discharged, otherwise the same shall be conclusive to all persons. *Provided (s. 8.)* that every person applying for such presentment shall by himself, or some person on his behalf, within 48 hours after such injury, or within a reasonable time after he shall be at liberty, give notice thereof to some of the inhabitants, or some town or village, or street, near to the place where such fact shall be committed, and shall, within 6 days after such fact committed, give notice to the high constable of the barony, and to the church-wardens of the parish, where such fact shall be alleged to be committed, (if such high constable and church-wardens shall reside within such barony and parish) who shall forthwith publish the same in such barony or parish; and within 6 days after such notices, either the person so injured shall give his examination upon oath, or examination upon oath shall be given by his servant or family, or other person employed by him, who was in his house, or who had the care of his habitation, property, &c. before some justice of peace inhabiting within said county or city, where such fact shall have been committed, or, if the same shall be committed in any city, county of a city, or town corporate, before the chief magistrate, or some alderman or justice of peace of the same, thereby specifying whether he do know the person or persons who committed said fact, or any of them; and if upon such examination it shall be confessed that he do [*know] any person

s. 7.

Traverse when allowed.

s. 8.

*Notices required to be given by persons applying for presentments**Examinations also required.** misprinted
"known"

*Presentment
when made.*

s. 9.

*Presentment not
removeable, &c.*

s. 10.

*Magistrates to
enforce this act.*

s. 12.

*Undertakers
considered as
masters.*

s. 11.

*Acts of combi-
nation for which
no specific pun-
ishment by this
or other act, how
punished.*

s. 13.

person who committed said fact, he shall be bound by recognizance to prosecute such offender. And by s. 9. every presentment to be made by virtue of this act, shall be made at the next assizes or presenting term, or sessions, after the fact committed, and shall be read in open court, and shall not be made at any other assizes, &c. unless such fact shall be committed so near the time of holding such assizes, &c. that due notice cannot be given before the 1st day of such assizes, &c. in which case it shall be lawful for the person injured to prefer his petition, and to obtain such presentment at the next assizes, &c. after such due notice shall be given as aforesaid. And provided (s. 10.) that no such presentment shall be removed, or the prosecution thereon otherwise delayed, than by such traverse as aforesaid, and that for such time only as shall be necessary for the trial of such traverse; nor shall any such presentment be quashed for any defect in form. By s. 12. it is enacted and declared to be the duty of all chief magistrates and justices of peace to attend to the execution of this act, and to examine whether persons carrying on trade have conformed thereunto. By s. 11. undertakers shall be considered as masters in every part of this act, so far as respects journeymen employed by them. By s. 13. wherever there shall be found any particular act of unlawful combination of masters or journeymen, for which no specific punishment is pointed out by this or any other act, it shall be lawful for any chief magistrate or justice of peace, within their jurisdictions, in a summary manner to examine into and determine the same, and to fine every person who shall be so convicted by the oath of a witness, or by confession, if a master, in any sum not exceeding £5. and if a journeyman or other inferior artificer, in any sum not exceeding 40s. one moiety to the informer, and the other to the poor of the parish in which such offence shall have been committed; and in case the fine shall not be paid to commit the offender to bridewell, house of correction, or common gaol of the place where such offence shall be committed, for any term not exceeding 3 months. But by s. 14. where

s. 14. where any sentence of conviction shall be pronounced under this act by authority of any single alderman or justice, such justice must be a person not concerned in that particular branch of trade, to which the complaint refers. By s. 16. if any person shall think himself aggrieved by the determination of any justice of peace or magistrate acting under this act, it shall be lawful for such person to appeal to the next quarter sessions of the peace for the county, or county of the city, in which the offence shall be charged to have been committed, and such court shall finally determine such appeal: Provided (s. 17.) that the person making such appeal shall, within 2 days after his conviction, enter into a recognizance, with a sufficient surety, before the magistrate from whose sentence he shall appeal, or any other justice of peace, in a sum not exceeding £20. conditioned to appear at such quarter sessions to prosecute his appeal; otherwise such appeal to be of no effect to suspend the execution of the sentence.

s. 14.

Who shall act as justices.

s. 16.

Appeal to sessions.

s. 17.

Recognizance required from person appealing

It is one of the provisions of the 37 Hen. 8. c. 6. Eng. that any person who shall maliciously, willingly, and unlawfully burn, (or cause, &c.) any wain or cart laden with coals, or other goods or merchandizes, of any other person, he shall not only forfeit to the party grieved treble damages, (to be recovered by action of trespass) but also shall forfeit to the king £10. in name of a fine. It has been already observed in respect to this statute which has occurred under several heads, that there is no corresponding act in Ireland.

Burning, &c. carts, &c. laden with goods, how punished.

37 Hen. 8. c. 6. Eng.

By the 10 Geo. 2. c. 32. s. 6. Eng. any person who shall wilfully and maliciously set on fire, (or cause, &c.) any mine, pit, or delph of coal or cannel coal, shall be guilty of felony without benefit of clergy. And by s. 4. (which has been already stated, *ante* p. 1008.) several of the provisions of the 9 Geo. 1. c. 22. Eng. *ante* p. 625, &c. are extended to this offence, in like manner as to the unlawfully and maliciously cutting hop-binds, &c. The 13 Geo. 2. c. 21. Eng. recites, that divers evil-disposed persons possessed of or interested in collieries, have, by secret and subtil devices, wilfully and mali-

Setting fire to mine, &c. of coal, a capital felony.

10 Geo. 2. c. 32. s. 6. Eng.

s. 4.

Provisions of 9 Geo. 1. c. 22. extended to this act.

13 Geo. 2. c. 21. s. 1. Eng.

Drowning colliery, &c. how punished.

ciously attempted to drown adjacent collieries, and have, by means of water conveyed or obstructed for that purpose, destroyed or damaged the same, intending thereby to enhance the price of coals, and gain the monopoly thereof; and enacts, that if any person shall unlawfully, wilfully, and maliciously, divert, (or cause, &c.) water from any river, brook, water-course, channel, or land flood, or convey, (or cause, &c.) water into any coal work, mine, pit, or delph of coals, or into any subterraneous cavities or passages, or make (or cause, &c.) any subterraneous cavities, &c. with design thereby to destroy or damage any coal work, &c. belonging to any other person; or shall for that purpose unlawfully, wilfully and maliciously destroy or obstruct any sough or sewer, (which has been a sough or sewer in common for 50 years) made for draining any coal work, &c.; or shall attempt or continue any such mischievous practice, or shall aid or assist therein in manner aforesaid; every such offender shall forfeit to the party grieved treble damages, and full costs of suit, to be recovered by action of debt, &c. in any court of record at Westminster.

s. 2.

Proviso.

9 Geo. 3. c. 29.
s. 3. Eng.

Destroying or damaging engine, &c. belonging to coal mine, &c. a felony, punishable with transportation.

Provided (s. 2.) that the owner of any sough, drain, or sewer, may destroy, &c. any sough, &c. as he may now lawfully do. The 9 Geo. 3. c. 29. Eng. further enacts, (s. 3.) that if any person shall wilfully or maliciously set fire to, burn, demolish, pull down, or otherwise destroy or damage, any fire engine, or other engine, for draining water from collieries or coal mines; or for drawing coals out of the same; or for draining water from any mine of lead, tin, copper, or other mineral; or any bridge, waggon way, or trunk for conveying coals from any colliery or coal mine, or staith for depositing the same; or any bridge or waggon way for conveying lead, tin, copper, or other mineral from such mine; such person being convicted of any of said offences, or of causing or procuring the same to be done, shall be guilty of felony, and liable to the pains, &c. of felony; and the court before whom such person shall be tried, shall have power to transport such felon for 7 years, in like manner as other felons. By s. 4. such prosecutions shall be commenced within 18 months after the offence.

s. 4.

Limitation for prosecutions.

And

And by the 39 & 40 Geo. 3. c. 77. s. 1. Eng. if any person shall wilfully and maliciously pull down, fill up, or begin or attempt to pull down or fill up any air-way, water-way, drain, pit, level, or shaft; or damage or destroy any rail-way, tram-road, or other road leading to or from, or intended to lead to or from any coal or other mine work; [*or if any person (not having or *bona fide* claiming a right to possess or work the same) shall wilfully and unlawfully cut, dig, raise, take, or carry away any coal, culm, or other mineral, from any bed, band, vein, or mine, lying and being in any waste, open, or unenclosed lands, or shall wilfully and unlawfully enter into any level, pit, or shaft, with intent to dig, cut, raise, take, or carry away therefrom any coal, &c.;] or shall aid, abet, assist, hire, or command any person to commit any such offence; every such person shall be guilty of a misdemeanor, and the court or judge before whom he shall be convicted, shall have power to cause him to be imprisoned for any term not exceeding 6 months. Provided (s. 2.) that nothing in this act shall extend to any trespass or damage which shall be done or committed under ground, by any owner of any adjoining coal or other mine in working the same, or by any person duly authorized and employed in such working as aforesaid. By s. 9. *ante* p. 994. all prosecutions under this act are to be begun within 9 calendar months after the offence. And in Ireland by the 1 Geo. 2. c. 24. s. 3. Ir. if any person shall wilfully and maliciously destroy any engine lawfully erected, or any shaft, passage, or drain, lawfully made for working any mine, or shall wilfully and maliciously do any damage to the same, to the value of £5.; or shall wilfully and maliciously burn or set on fire any stack of coals or charcoal above ground, or vein or mine of coals lying under ground, or any shaft or passage leading thereto, such offender shall be guilty of felony without benefit of clergy. The clauses of the 23 & 24 Geo. 3. c. 20. Ir. which have been already stated, *ante* p. 642. are to be here also referred to.

39&40 Geo. 3.
c. 77.s. 1. Eng.Damaging, &c.
airway, shaft,
rail way, &c. of
mine, how pun-
ished.Unlawfully
raising coal, &c.
from any vein or
mine in any
waste, &c. how
punished.

s. 2.

Proviso.

s. 9.

Limitation for
prosecutions.1 Geo. 2. c. 24.
s. 3. Ir.Destroying any
engine, shaft,
&c. of mine, or
damaging to the
value of £5. or
setting fire to
coal's, &c. a ca-
pital felony.

3 x 2

The

* *Vide* 25 Geo. 2. c. 10. Eng. *ante* p. 953.

*Casting away,
&c. ships to in-
jure owners, &c.
a capital felony.
43 Geo. 3. c. 113.
E.*

*s. 3.
Offences where
and how tried.
* "In Ireland"
in 43 Geo. 3.
c. 79. I.*

*43 Geo. 3. c. 79.
I.*

*33 Geo. 3. c. 67.
s. 5. Eng.*

*Seaman, carpen-
ter, &c. setting
fire to ship, &c.
guilty capitally.*

The 43 Geo. 3. c. 113. E. (which supersedes the 22 & 23 Car. 2. c. 11. s. 12. Eng. 1 Ann. st. 2. c. 9. s. 4 & 5. Eng. and expressly repeals the 4 Geo. 1. c. 12. s. 3. Eng. and 11 Geo. 1. c. 29. s. 5. 6 & 7. Eng.) enacts (s. 2.) that if any person shall wilfully cast away, burn, or otherwise destroy any ship or vessel, or in any wise counsel, direct, or procure the same to be done, and the same be accordingly done, with intent thereby wilfully and maliciously to prejudice any owner of such ship, &c. or any owner of any goods loaden on board the same, or any person or body corporate that shall have underwritten any policy of insurance upon such ship, &c. or on the freight thereof, or upon any goods loaden on board the same, such offender shall be guilty of felony without benefit of clergy. And by s. 3. if any such ship, &c. shall be wilfully cast away, &c. within the body of any county, [*of this realm,] then such offences, as well in wilfully casting away, &c. such ship, &c. as in counselling, &c. the same to be done, shall and may be inquired of, &c. in the same courts, and in such manner, as felonies done within the body of any county; and if any such ship, &c. be wilfully cast away, &c. in the high seas, then said several offences shall and may be inquired of, &c. before such court, and in such manner as by the [†28 Hen. 8. c. 15. Eng.] is directed for inquiring, &c. of felonies upon the high seas. And the 43 Geo. 3. c. 79. I. (which repeals the 11 Geo. 2. c. 9. s. 2. Ir.) contains the same provisions with relation to Ireland, with such variations only as are noted in the margin. The clauses of the several statutes, English and Irish, which respect ships in distress, have been already stated, *ante* p. 958, &c. and are to be here also referred to. The 33 Geo. 3. c. 67. Eng. is to be here stated, which enacts, (s. 5.) that if any seaman, keel-man, caster, ship carpenter, or other person, shall wilfully and maliciously burn or set fire to any ship, keel, or other vessel, such offender, being convicted in any court

† The 11. 12 & 13 Jac. 1. c. 2. Ir. is here referred to by the 43 Geo. 3. c. 79. I.

court of *oyer and terminer*, to be holden in and for any county, &c. wherein the offence was committed, shall be guilty of felony without benefit of clergy. And by s. 6. if any seaman, &c. or other person, shall wilfully and maliciously destroy or damage any ship, &c. (otherwise than by fire,) and be thereof convicted, upon any indictment in any court of *oyer and terminer*, or general or quarter sessions of the peace, to be holden in and for the county, &c. wherein the offence was committed, he shall be guilty of felony, and be transported for any time not exceeding 14 nor less than 7 years. And by s. 7. in case any of the offences herein-before mentioned, shall be committed on the high seas, such offence shall be triable in any session of *oyer and terminer*, and gaol delivery, for the trial of offences committed on the high seas within the jurisdiction of the admiralty of England. Provided (s. 8.) that no person shall be prosecuted under this act, unless such prosecution be commenced within 12 calendar months after the offence. And the other clauses of this act may be here stated, though perhaps more properly referable to the heads of riot and combination. By s. 1. if any seamen, keelmen, casters, ship carpenters, or other persons, riotously assembled together, to the number of 3 or more, shall unlawfully and with force prevent, hinder, or obstruct the loading or unloading, or the sailing or navigating of any ship, keel, or other vessel; or shall unlawfully and with force board any ship, &c. with intent to prevent, &c. the loading, &c. of such ship, &c. such offender, being convicted upon any indictment to be found in any court of *oyer and terminer*, or general or quarter sessions of the peace, to be holden in and for the county, &c. wherein the offence was committed, shall be committed either to the common gaol for the same county, &c. or to the house of correction, (to be there kept to hard labour,) for any term not exceeding 12 nor less than 6 calendar months. And by s. 2. if any seaman, &c. or other person, shall unlawfully, and with force, prevent, hinder, or obstruct any seaman, keelman, caster, or ship carpenter, from working at, employing himself in or exercising

s. 6.

Seaman, &c. damaging any ship otherwise than by fire, transported.

s. 7.

Offences where tried.

s. 8.

Limitation for prosecutions.

s. 1.

Riotously obstructing the loading or unloading, &c. of any ship, &c. how punished.

s. 2.

Obstructing any seaman, ship-carpenter, &c. from exercising his occupation how punished.

cising his lawful trade or occupation; or shall wilfully and maliciously assault, beat, or wound, or use or commit any bodily violence or hurt to or upon any seaman, &c. with intent to deter, prevent, hinder, or obstruct such seaman, &c. from working at, &c. his lawful trade, &c.; such offender, being convicted upon any indictment found in any court of *oyer and terminer*, or general or quarter sessions of the peace to be holden in and for the said county, &c. wherein the offence was committed, shall be committed to the common gaol for such county, &c. or to the house of correction for the same county, &c. to be kept to hard labour, for any term not exceeding 12 nor less than 6 calendar months. And by s. 3. if any

s. 3.

Subsequent offences punishable with transportation.

seaman, &c. shall be so convicted of any of the offences aforesaid, a 2nd time, he shall, for such 2nd and every subsequent offence, be adjudged guilty of felony, and be transported for any time not exceeding 14 nor less than 7 years. Provided (s. 4.) that none of the punishments herein-before authorized to be inflicted, shall extend to any thing done or suffered in the service, or by authority of the king. No statute similar to this has been passed in Ireland.

s. 4.

Proviso.

Breaking down, &c. banks of rivers, &c. a capital felony.

6 Geo. 2. c. 37.
s. 5. Eng.

Another species of malicious mischief is that provided for by the 6 Geo. 2. c. 37. s. 5. Eng. which enacts, that if any person shall unlawfully and maliciously break down or cut down the bank of any river, or any sea bank, whereby any lands shall be overflowed or damaged, such offender shall be guilty of felony without benefit of clergy; And the 10 Geo. 2. c. 32. Eng. recites this clause of the 6 Geo. 2. *supra*; and by s. 4. *ante* p.1008. extends the provisions of the 9 Geo. 1. c. 22. for the more speedy and easy bringing offenders to justice, &c. to this offence, in like manner as to that of unlawfully and maliciously cutting hop-binds. This act (10 Geo. 2. c. 32.) recites (s. 5.) that it frequently happens that idle and disorderly people employed in fishing boats, and others residing near the sea coasts, do unlawfully and maliciously cut off, draw up, burn and destroy the piles which are drove into the marsh, or sea walls and banks, whereby the chalk and other materials used for securing the said walls, &c. fall away, and oftentimes take the said chalk and other

10 Geo. 2. c. 32.
s. 4. Eng.

Provisions of 9 Geo. 1. c. 22. extended to this offence.

s. 5.

Penalty for cutting off, &c. piles, chalk, &c. whereby lands are over-flowed.

other materials used for that purpose, and thereby frequent inundations happen to the lands lying within the said walls and banks, to the great damage of the owners and occupiers of the said lands; and therefore enacts, that if any person shall unlawfully cut off, draw up, or remove and carry away any piles, chalk, or other materials driven into the ground, and used for the securing any marsh, or sea-walls or banks, in order to prevent the lands lying within the same from being overflowed and damaged; any justice of peace residing near the place where the offence shall be committed, shall, upon complaint or information upon oath of such offence, summon the party complained of, or issue his warrant to apprehend and bring before him the person so accused or suspected; and upon his appearance, or neglect to appear, proceed to examine the matter, and upon due proof thereof, either by confession of the party, or upon oath of a witness, convict the offender; and every person so convicted shall forfeit £20. one moiety to the informer, and the other to the overseer for the use of the poor of the parish wherein such offence shall be committed, to be levied by distress, &c. together with the charges of such distress, &c.; and for want of sufficient distress the said justice shall commit the person so convicted to the house of correction, to be kept to hard labour for 6 months. The law of Ireland does not contain any provisions in respect to this species of malicious mischief.

By the 1 Geo. 2. st. 2. c. 19. s. 2. Eng. if any person shall, either by day or night, wilfully and maliciously break down or demolish any lock, sluice, or flood-gate, erected by authority of parliament, upon any navigable river, for preserving or securing the navigation thereof, and shall be lawfully convicted of the same, upon indictment before any justices of assize, *oyer and terminer*, or general gaol delivery for the county, &c. where such offence shall be committed; such offender shall be guilty of felony, and subject to the pains and penalties of felony; and the court before whom such person shall be tried, shall have authority to transport such felons for 7 years,

Demolishing locks, &c. erected by authority of parliament upon navigable rivers, a felony, punishable with transportation.

1 Geo. 2. st. 2. c. 19. s. 2. En

5 Geo. 2. c. 33. s. 2. Eng. years, in like manner as other felons. And by the 5 Geo. 2. c. 33. s. 2. Eng. if any offender shall return into

A capital felony to return from transportation.

s. 3.

Expenses of such prosecutions how defrayed.

8 Geo. 2. c. 20. s. 1. Eng.

Demolishing locks, &c. a capital felony.

Or rescuing offenders.

s. 2.

Persons drawing up flood-gates, how punished.

s. 3.

Offence where inquirable.

s. 4.

Great Britain or Ireland before the expiration of said 7 years, [*contrary to the 1 Geo. 2. st. 2. c. 19. *supra*,] he shall suffer death as a felon without benefit of clergy.

And by s. 3. the trustees, commissioners, proprietors, undertakers, or other person authorized or empowered to put in execution any act of parliament for making rivers navigable, may, out of the tolls, rates, and duties arising by such act, discharge the expenses of any action, information, indictment, or other prosecution which shall be commenced on account of the destroying of any lock, sluice, flood-gate, or other works on any navigable river erected by authority of parliament. But

the 8 Geo. 2. c. 20. Eng. recites, that the 1 Geo. 2. st. 2. c. 19. and 5 Geo. 2. c. 33. *supra*, had been found insufficient; and therefore enacts, that if any person shall, either by day or night, wilfully or maliciously pull down, pluck up, throw down, level, or otherwise destroy any lock, sluice, flood-gate, or other work on any navigable river, erected by authority of parliament; or forcibly rescue any person being lawfully in custody of any officer or other person for any of the offences before-mentioned; such offender shall be guilty of felony without benefit of clergy. And by s. 2. any person wilfully and maliciously drawing up any flood-gate, fixed or made in any wear or lock erected or made by authority of parliament, in or upon any navigable river, for preserving the navigation thereof, being convicted upon the oath of a witness, before 2 justices of peace for the county, riding, or division where such offence shall be committed, or of the adjacent county, &c. shall be sent to the house of correction, to be kept to hard labour for a month. And by s. 3. every offence against this act may be inquired of, &c. in any adjacent county within England as if therein committed. Provided (s. 4.) that no attainder for any offence made felony by this act, shall work

* The 5 Geo. 2. c. 33. Eng. principally relates to the offence of wilfully and maliciously pulling down or destroying turnpikes; but this clause seems to refer to offenders convicted of destroying sluices, &c. *vide* 2 East P. C. p. 1008 9.

work corruption of blood, loss of dower, or forfeiture of lands, &c. And by s. 5. if any person shall commit any offence declared felony hereby, and being out of prison, shall discover and apprehend, (or cause, &c.) one person or more, who shall commit any such felony, he shall on conviction of such offender, be entitled to the king's pardon for the felonies aforesaid, which he shall have committed at any time before such discovery made, which shall be a bar to any appeal brought for such felony. By s. 6. the inhabitants of every hundred in England, within which such offence shall be committed by pulling down and destroying any lock, sluice, or flood-gate, or any work erected by authority of parliament, upon any navigable river, for preserving or securing the navigation thereof, shall make full satisfaction for the damages thereby suffered; to be recovered by action of debt, &c. in any court of record at Westminster, by and in the name of the clerk of the peace of the county for the time being, wherein the offence shall be committed, without naming the christian name or surname of the clerk of the peace; and the said damages shall be to the only use of the trustees, commissioners, proprietors, or undertakers, to be applied in like manner as the tolls, rates, and duties, are by any act, made or to be made, to be disposed of; such sum so to be recovered not exceeding, for any offence, £20.; and the inhabitants of such hundred shall be rateably taxed towards an equal contribution for the relief of such inhabitants, against whom execution shall be levied; which tax shall be levied in such manner as is prescribed for levying damages against inhabitants of hundreds in case of robberies, by the 27 Eliz. c. 13. Eng. Provided (s. 7.) that where any offender against this act, shall be convicted of such offence within 12 months after such offence, any hundred, or inhabitants thereof, liable to make satisfaction for the damages sustained by any such offence, and who shall have made such satisfaction, shall, upon conviction of any of the offenders within the time aforesaid, be repaid the sum so paid, [out of the tolls of the turnpike

Attainder no corruption of blood, &c.

s. 5.

Persons discovering offender, pardoned.

s. 6.

Inhabitants of hundred to make compensation for damage.

s. 7.

If offender convicted in 12 months, inhabitants reimbursed

s. 8.

Death or removal of clerk of the peace no abatement of suit for compensation.

s. 9.

No action, &c. unless information of offence within 6 days.

s. 10.

Limitation for actions, &c.

s. 16.

No certiorari to remove proceedings.

4 Geo. 3. c. 12. s. 5. Eng.

Demolishing banks, &c. upon rivers made navigable by parliament, again made a clergyable felony.

27 Geo. 3. c. 30. s. 22. Ir.

Damaging or destroying bridges, locks, &c. belonging to any inland navigation, a felony.

pike so pulled down.*] By s. 8. if any clerk of the peace of any county in England, shall commence or prefer any such action, &c. and shall die or be removed before recovery and execution had, no such action, &c. shall thereby be abated or discontinued; but it shall be lawful for the clerk of the peace next succeeding in said county, to prosecute such action, &c. Provided (s. 9.) that no such action, &c. shall be sued or prosecuted to recover any damages, unless information upon oath shall be made thereof within 6 days, before a justice of the county, &c. inhabiting within the said hundred. And provided (s. 10.) that such action, &c. shall be commenced within 6 months next after such offence. This act provides (s. 16.) that no *certiorari* shall be granted for removing any proceeding of any justices of peace, concerning any of the matters in this act contained, out of the proper county, &c. into any other court. But this statute seems to be, in part at least, superseded or repealed by the 4 Geo. 3. c. 12. Eng. which recites (s. 5.) that the laws now in being are not sufficient for the preservation of the banks, flood-gates, sluices, and other works belonging to rivers and streams made navigable by act of parliament, and for the maintaining the navigation of such rivers and streams; and enacts, that if any person shall wilfully or maliciously break, throw down, damage, or destroy any banks, &c. or open or draw up any flood-gate, or do any other wilful hurt or mischief to such navigation, so as to obstruct, hinder, or prevent the carrying on, completing, supporting or maintaining such navigation; he shall be guilty of felony, and the court before whom he shall be convicted shall have authority to order him to be transported for 7 years. By the 27 Geo. 3. c. 30. s. 22. Ir. if any person shall wilfully and maliciously beat down, undermine, damage, or destroy, or wilfully aid, abet, assist, or set on, in breaking down, undermining, damaging, or destroying any bridge, lock, wear, sluice, aqueduct, funnel, flood-gate, towing-path, or bank, or any reservoir, cut, dam, supply drain, or water course belonging

* It appears to be an error or omission in this clause, not to have included "locks or other works," &c. to which the other clauses relate.

belonging to any canal or inland navigation, made or to be made, such person shall be guilty of felony, and be transported for 7 years, in like manner as other felons, or be fined, whipped, or imprisoned, at the discretion of the court before which such person shall be convicted.*

How punished.

The 13 Geo. 3. c. 84. Eng. (which consolidates the provisions of all former general acts relating to turn-pikes), enacts, (s. 42.) that if any person shall, by day or night, wilfully or maliciously pull down, pluck up, throw down, level, or otherwise destroy any turnpike-gate, or any post, rail, wall, or chain, bar, or fence, belonging to any turnpike-gate, or any other chain, bar, or fence, set up or erected, or to be set up, &c. to prevent passengers from passing by without paying any toll laid or directed to be paid by any act of parliament; or any house erected, &c. for the use of any such turnpike gate; or any crane, machine, or engine made or erected, or to be made, &c. on any turnpike road, by authority of parliament, for weighing waggons, carts, or carriages; or shall forcibly rescue any person being lawfully in custody of any officer or other person, for any of the offences before mentioned; every such offender shall be guilty of felony, and be transported for 7 years, or shall be committed to prison for any time not exceeding 3 years, at the discretion of the judge or court before whom such offender shall be tried: And any indictment for such offences may be inquired of, &c. in any adjacent county within England, as if the facts had been there committed. And by s. 43. the inhabitants of every hundred within England, within which such offence shall be committed, by pulling down or destroying any such turnpike-gate, or any such post, rail, or wall belonging to any turnpike-gate, or any such chain, bar, or fence, or any house set up or erected, or to be set up, &c. for the use or service of collecting the tolls, or any crane, machine, or engine, made or erected on any turnpike road by authority of parliament, for weighing waggons, carts or carriages, at any place appointed by the respective

Destroying turnpike-gates, &c. or being accessory thereto or rescuing offender, a felony.
13 Geo. 3. c. 84. s. 42. Eng.

How punished.

Offences where inquirable.

s. 43.

Inhabitants of hundred to make compensation.

* The statutes which regard drainage works in particular places, and other acts of that local nature, do not fall within the scope of this work.

*Compensation
how recoverable.*

*If offender con-
victed in 12
months inhabi-
tants reimbursed*

*27 Geo. 3. c. 53.
s. 1. Ir.*

*Destroying any
turnpike-gate,
&c. or rescuing
offender, how
punished.*

spective trustees, or any 5 of them, acting under any act of parliament for amending any turnpike road, shall make full satisfaction for the damages thereby suffered; and said damages may be recovered by action of debt, &c. in any court of record, by and in the name of the clerk of the peace of the county for the time being wherein such offence shall be committed, without naming the christian or surname of the clerk of the peace; and such action shall not be abated or discontinued by the death or removal of any such clerk, but may be sued and prosecuted by his successors; and the said damages so to be recovered, shall be to the only use of the trustees of such turnpike road, to be by them applied in such manner as the several tolls, rates, and duties, by virtue of such act of parliament, shall be applied and disposed of; and all the inhabitants of such hundred shall be rateably taxed toward an equal contribution for the relief of such inhabitant against whom execution for such damages shall be levied, which tax shall be raised in such manner as is prescribed for the levying damages recovered against inhabitants of hundreds, in case of robberies, by any act of parliament: provided that upon conviction of any such offender within 12 months after the offence, any hundred, or the inhabitants thereof, liable to make, and having made such satisfaction, shall be repaid the sums they have so paid out of the tolls of the turnpike where such offence was committed. The 27 Geo. 3. c. 53. Ir. recites, that gates and other fences erected for the purpose of taking the tolls made payable upon the several roads of this kingdom, by the several acts granting such tolls, have been at various times pulled down or destroyed by malicious and riotous persons, to the injury of the public, and the disturbance of the peace; and therefore enacts, that if any person shall, by day or night, wilfully pull down, pluck up, throw down, level, or otherwise destroy any pay-gate or turnpike-gate, or any post, rail, wall, chain, bar, or other fence, which shall be used, set up, or erected to prevent passengers from passing by without paying the toll payable by act of parliament, or any toll-house for the use of

of such pay-gate or turnpike-gate, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the offences before mentioned, every such offender shall be whipped, fined, or imprisoned, at the discretion of the judge before whom he shall be convicted.

With respect to highways and bridges: The 13 Geo. 3. Penalty on persons damaging banks, causeways, battlements of bridges, &c. c. 78. Eng. enacts (s. 52.) that every person who shall wilfully or wantonly pull up, cut down, and remove or damage the posts, blocks, and great stones fixed in the ground, or banks of earth cast up, or other means used to secure horse-causeways, and foot-causeways, or drive carriages upon such banks or causeways, or against the sides thereof, or dig or cast down the said banks, [*and also every person who shall break, damage, or throw down the stones, bricks, or wood, fixed upon the parapets or battlements of bridges;] or pull down, destroy, obliterate or deface any mile-stone, or post graduated, or direction post or stone erected upon any highway; shall, upon complaint thereof made to any justice of peace of the limit where the same shall be proved to be done, by the oath of a witness, or upon the view of the justice, forfeit for every such offence any sum not exceeding £5. nor less than 10s.; and in default of payment thereof, shall be committed to the house of correction of such limit, there to be whipped, and kept to hard labour for any time not exceeding a calendar month, nor less than 7 days, at the discretion of such justice. And by the 36 Geo. 3. c. 55. s. 73. Ir. any person who shall wilfully destroy, pull up, deface, or 36 Geo. 3. c. 55. s. 73. Ir. injure any mile-stone, mile-post, and direction post, or any bridge, battlement, wall, railing, mound, or fence, Penalty on persons injuring mile-stones, bridges, or other works built, &c. by presentment. erected or repaired by presentment; or shall wilfully break, deface, pull down, or take away stones out of any such battlement, wall, mound, or fence: [or out of any court-house, gaol, house of correction, pier, or other building,] or any bridge, pipe, arch or gullet, built

* Several statutes have made it a felony, and in some instances a capital felony, to destroy particular bridges.

built or repaired by presentment; shall forfeit for every such offence, upon conviction by the oath of a witness, before a justice of peace within his jurisdiction, or upon the view of such justice, such sum not exceeding £5. as such justice, chief magistrate, or his acting deputy shall think fit.

§ 4.

Punishment for forging deeds, &c. whereby the freehold, &c. of another may be troubled.

5 Eliz. c. 14.
s. 2. Eng.

IV. Lastly with respect to the crime of *forgery*: The

5 Eliz. c. 14. Eng. enacts (s. 2.) that if any person upon his own head and imagination, or by false conspiracy and fraud with others, shall wittingly, subtilly, and falsely forge or make, or subtilly cause, or wittingly assent to be forged or made, any false deed, charter or writing sealed, court roll, or the will of any person in writing, to the intent that the state of freehold or inheritance of any person of, in, or to any lands, &c. freehold or copyhold, or the right, title, or interest, of any person of, in, or to the same, or any of them, may be molested, troubled, defeated, recovered or charged; or shall pronounce, publish, or shew forth in evidence any such false and forged deed, &c. as true, knowing the same to be false and forged, and to such intent as aforesaid; and shall be thereof convicted, either upon action of forger of false deeds, to be founded upon this statute, at the suit of the party grieved, or otherwise according to law; he shall pay his double costs and damages, to be assessed in that court where such conviction shall be, and also shall be set upon the pillory in some open market-town, or other open place, and there to have both his ears cut off, and also his nostrils to be slit and cut, and seared with a hot iron, so as they may remain for a perpetual mark of his falsehood, and shall forfeit to the crown the whole issues and profits of his lands and tenements during his life, and also shall suffer perpetual imprisonment during his life: The said damages and costs to be recovered at the suit of the party grieved, to be first levied of the goods of the offender, and of the issues and profits of the lands, &c. of the party convicted. And by s. 3. if any person upon his own head, &c. shall wittingly, subtilly and falsely, forge or make, or wittingly, &c. cause or assent to be made and forged, any false charter, deed or writing, to the intent

s. 3.

Punishment for forging a deed whereby a lease or annuity may be claimed.

intent that any person may claim an estate or interest for years, in any lands, &c. not being copyhold, or any annuity in fee simple, fee tail, or for term of life, lives, or years; or shall as aforesaid forge, make, or cause or assent to be made or forged, any obligation or bill obligatory, or any acquittance, release or discharge of any debt, &c. or other thing personal; or shall pronounce, publish, or give in evidence any such false and forged charter, &c. or obligation, &c. as true, knowing the same to be false and forged, and shall be thereof convicted as aforesaid, he shall pay unto the party grieved his double costs and damages, to be assessed in such court where such conviction shall be had, and shall be also set on the pillory in some market-town, or other open place, and there to have one of his ears cut off, and shall also be imprisoned for one year. By s. 4. the party grieved may have his action of forger of false deeds upon this statute, against any such offender, by original writ out of chancery, and have like process upon the same, as in trespass at common law; or may, at his pleasure, take his suit by bill in the king's bench or exchequer, wherein, &c. By s. 5. if the defendant shall be convicted for any of the offences aforesaid, and shall have received corporal punishment accordingly, he shall not estsoons be impeached for the same offence. By s. 6. although the plaintiff in any such action shall, after verdict against the defendant, release the judgment or execution, or suffer the same to be discontinued, yet such release, discharge or discontinuance, shall only discharge such costs and damages as the plaintiff should have had; and the judges before whom the action shall be, may proceed to judgment of and upon the residue of the penalties, and command execution upon the same. By s. 7. if any person convicted of any the offences aforesaid, shall estsoons commit any of said offences, every such 2nd offence shall be felony without benefit of clergy; saving to every person, &c. other than the offender, their rights, &c. in or to any lands, &c. of any person so convicted. Provided (s. 8.) that such conviction or attainder of felony shall not extend to take away dower, nor to the corruption of blood, or disherison

s. 4.

Remedies for party grieved.

s. 5.

Proviso.

s. 6.

The plaintiff's release shall discharge only his own costs and damages.

s. 7.

Second offence felony without clergy.

s. 8.

No corruption of blood, &c.

- s. 10. *Justices of assize, &c. to determine offences.* disherison of the heir. By s. 10. justices of *oyer* and *terminer*, and justices of assize, shall have power to inquire, &c. of the offences aforesaid, and to make process for execution as against any person indicted of trespass. By s. 9. this act shall not charge any ordinary, or their officers, with any offence aforesaid, for putting their seal of office to any will exhibited unto them, not knowing the same to be false or forged, or for writing of the said will or probate of the same. And by s. 12. this act shall not extend to any proctor, advocate, or register of any ecclesiastical court, for the writing, setting forth or pleading of any proxy according to the customs allowed by the ecclesiastical courts, for the appearance of any person cited to appear in the said courts, nor to any archdeacon or official, for putting their authentic seal to the said proxies, nor to any judge ecclesiastical for admitting of the same. And by s. 15. this act shall not extend to any attorney, or counsellor, that shall for his client plead or give in evidence any false and forged deed, &c. being not party or privy to the forging of the same: Nor (by s. 16.) to any person that shall plead or shew forth any deed or writing exemplified under the great seal, or under seal of any authentic court, nor shall extend to any judge or other person, that shall cause any seal of any court to be set to such deed, charter, or writing inrolled, not knowing the same to be false or forged. And by s. 11. all other statutes against forgery, are declared void. But this statute seems to be superseded by the 2 Geo. 2. c. 25. s. 1. Eng. which (as amended by the 31 Geo. 2. c. 22. s. 78. Eng.) enacts, that if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, &c. or wilfully act or assist in the false making, &c. any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange, or promissory note for payment of money, or any acquittance or receipt either for money or goods, with intention to defraud any person [*or corporation]; or shall utter or publish as true any false, forged, or counterfeited deed, &c. with
- s. 9. *Proviso as to ordinaries and their officers.*
- s. 12. *Not to extend to proctors, &c. of ecclesiastical court.*
- s. 15. *Proviso as to attornies and lawyers.*
- s. 16. *Proviso as to writings exemplified.*
- s. 11. *Former laws repealed.*
2 Geo. 2. c. 25. s. 16. Eng.
Forgery with intent to defraud person or corporation, a capital felony.
- * By 31 Geo. 2. c. 22. s. 78. Eng.

with intention to defraud any person, &c. knowing the same to be false, &c.; he shall be guilty of felony without benefit of clergy. The clauses s. 4 & 5. of this act, have been already stated, *ante* p. 608. and are to be here referred to. And by the 7 Geo. 2. c. 22. Eng. as amended by the 18 Geo. 3. c. 18. Eng. if any person shall falsely make, alter, forge or counterfeit, or cause or procure to be falsely made, &c. or willingly act or assist in the false making, &c. any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill, or other security for payment of money, or any warrant or order for payment of money, or delivery of goods, with intention to defraud any person, [*or corporation]; or shall utter or publish as true any false, altered, forged or counterfeited acceptance of any bill of exchange, or accountable receipt for any note, bill, or other security for payment of money, or warrant or order for payment of money or delivery of goods, with intention to defraud any person, &c. knowing the same to be false, &c. he shall be guilty of felony without benefit of clergy. The 45 Geo. 3. c. 89. G. B. recites the 2 Geo. 2. c. 25. and 7 Geo. 2. c. 22. *supra*, amongst other statutes, and that it is expedient that their provisions for preventing and punishing forgery should be in force in every part of Great Britain, with such alterations, &c. as are hereby made; and enacts, that if any person shall falsely make, forge, counterfeit or alter, or cause or procure to be falsely made, &c. or willingly act or assist in the false making, &c. any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange or promissory note for payment of money, acceptance of any bill of exchange, or any acquittance or receipt for money or goods, or any accountable receipt for any note, bill, or other security for payment of money, or any warrant or order for payment of money or delivery of goods, with intention to defraud any person or body corporate; or shall offer, dispose of, or put away any false, forged, counterfeited or altered deed, &c. with intention to defraud any person, &c. knowing the same to be false,

7 Geo. 2. c. 22. Eng.

Forging certain writings or parts of writings, with intent to defraud any person or corporation, a capital felony.

*By 18 Geo. 3. c. 18. Eng.

So knowingly uttering such forged writings.

45 Geo. 3. c. 89. G. B.

Forging &c. certain writings in any part of Great Britain, a capital felony.

So knowingly to offer, dispose of, or put away such forged instruments.

28 Eliz. c. 3.
Ir.

3 Geo. 2. c. 4.
Ir.

*Forging, &c.
certain instru-
ments to the va-
lue of £5. a
felony.*

*So knowingly
uttering such
forged instru-
ments.*

17 Geo. 2. c. 11.
s. 1. Ir.

*Such offenders
(except utterers)
ousted of clergy.*

13 & 14 Geo. 3.
c. 14. Ir.

25 Geo. 3. c. 37.
Ir.

*Persons forging
notes, bills, &c.
or knowingly
uttering them,
guilty capitally.*

forged, counterfeited or altered; every such offender shall be guilty of felony without benefit of clergy. In Ireland the 28 Eliz. c. 3. Ir. is a corresponding statute to the 5 Eliz. c. 14. *supra*. And the 3 Geo. 2. c. 4. Ir. as amended by the 17 Geo. 2. c. 11. Ir. (in analogy to the 2 Geo. 2. c. 25. Eng. *supra*) enacts, that if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, &c. or willingly act or assist in the false making, &c. any deed, last will or testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, to the value of £5. indorsement or assignment of any bill of exchange or such promissory note for payment of money, or any acquittance or receipt, either for money or goods, to the value of £5. with intention to defraud any person; or shall utter or publish as true any false, forged, or counterfeited deed, &c. with intention to defraud any person, knowing the same to be false, &c.; such offender shall be guilty of felony, and be burned in the hand, or transported at the discretion of the court before which such offender shall be convicted: But the 17 Geo. 2. c. 11. s. 1. Ir. recites the several offences in the 3 Geo. 2. c. 4. s. 1. *supra*, (except that of knowingly uttering, &c. such forged deeds, &c.) and enacts, that if any person shall be indicted on the 3 Geo. 2. c. 4. for any of said offences, and convicted, he shall be excluded from the benefit of clergy. The 13 & 14 Geo. 3. c. 14. Ir. as amended by the 25 Geo. 3. c. 37. Ir. also enacts, that if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or willingly act or assist in the false making, &c. any promissory note, or indorsement of any promissory note, or any bill of exchange, or acceptance or indorsement of any bill of exchange, or in altering the number or principal sum of any promissory note, bill of exchange, or accountable receipt, or any receipt, acquittance, or discharge for rent, or other consideration, or any note, bill, or other security for payment of money, or any warrant or order for payment of money, or any order for the delivery of goods, or procuring or giving credit, to the value of £5. with

with intention to defraud any corporation or person; or shall utter or publish as true any such false, altered, forged or counterfeited promissory note, &c. with intention to defraud any corporation or person, knowing the same to be false, &c. he shall be guilty of felony without benefit of clergy. The 39 Geo. 3. c. 63. Ir. recites, ^{39 Geo. 3.c.63. Ir.} that the crime of forgery hath lately increased, and that the laws now in force do not inflict an adequate punishment upon the offenders; and therefore enacts, that if ^{Forging or altering any note, bill, &c. or knowingly uttering them, a capital felony.} any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, &c. or willingly act, aid, or assist in the false making, &c. any promissory note, or any assignment or indorsement of any promissory note, or any bill of exchange, or acceptance, or assignment or indorsement, of any bill of exchange for payment of money; or any accountable receipt, or any receipt, acquittance, or discharge for rent or other consideration; or any note, bill, or other security for payment of money; or any draft, or warrant or order for payment of money; or any order for the delivery of goods, or for procuring or giving credit; or shall falsely alter, or cause or procure to be falsely altered, or shall willingly act, aid, or assist in the falsely altering the number, principal sum, or any part of such note, &c.; with intention to defraud any person or body corporate; or shall utter or publish as true any false, forged, altered, or counterfeited promissory note, &c. or in any of which the number, principal sum, or any part of such note, &c. shall have been falsely forged, &c. with intention to defraud any person or body corporate, knowing the same to be false, &c.; every such offender shall be guilty of felony without benefit of clergy.

“For the better prevention of the forgery of the notes and bills of exchange of persons carrying on the business of bankers,” the 41 Geo. 3. c. 57. U. K. enacts, ^{Punishment for making or using any mould, &c. for making paper of bankers, without their authority.} that if any person, in any part of the United Kingdom of Great Britain and Ireland, shall make or cause to procure to be made, or knowingly aid or assist in the making or using of any frame, mould, or part of any frame or mould, for the making of paper, with the name or firm appearing visible in the substance of the paper of

^{41 Geo.3. c.57. s. 1. U. K.}

Or manufacturing, or selling such paper, &c.

Or imitating their paper.

s. 2.

Punishment for engraving, &c. upon any plate, any banker's bill or note, without authority.

Or having such plate, in any man's possession.

Or publishing, &c. such bill, &c.

any person, body corporate, or other banking company, or partnership carrying on the business of bankers, without an authority in writing for that purpose from such person, &c. or from some person duly authorized to give such authority; or shall manufacture, make, vend, expose to sale, publish or dispose of, or cause or procure to be manufactured, &c. any paper having the name or firm, appearing visible in the substance of the paper, of any person, &c. carrying on the business of bankers; or if any person, without such authority, shall by any art, means, mystery, or contrivance, cause or procure, or shall knowingly aid or assist in causing or procuring the name or firm of any person, &c. carrying on the business of bankers, to appear visible in the substance of the paper whereon the same shall be written or printed; every such offender shall, for the 1st offence, be imprisoned for any time not exceeding 2 years nor less than 6 months, and, for the 2nd offence, be transported for 7 years. And by s. 2. if any person, in any part of the united kingdom, shall engrave, cut, etch, scrape, or by any other means or device make, or cause or procure to be engraved, &c. or shall knowingly aid or assist in the engraving, &c. in or upon any plate, any bill of exchange, promissory note, or other note for the payment of money, or part of any bill of exchange, &c. purporting to be the bill of exchange, &c. of any person, &c. carrying on the business of bankers, without an authority in writing for that purpose from such person, &c. or some person duly authorized to give such authority; or shall use any such plate so engraved, &c.; or shall use any other device for the making or printing any such bill of exchange, &c. without such authority in writing as aforesaid; or if any person shall, without such authority as aforesaid, knowingly have in his custody any such plate or device, or shall, without such authority as aforesaid, knowingly and wilfully publish, dispose of, or put away any such bill of exchange, &c. or part of such bill of exchange, &c.; every such offender shall, for the 1st offence, be imprisoned for any time not exceeding 2 years nor less than 6 months, and, for the

the 2nd offence, be transported for 7 years. And by s. 3. s. 3.
 if any person shall engrave, cut, or etch, or by any
 other means or contrivance trace with a hair-stroke or *Punishment for engraving, &c. the subscription of any banker to any bill or note.*
 other mode of delineation, [*on] any plate whatsoever,
 any of the subscriptions subjoined to any bill of exchange,
 promissory note, or other note for the payment of
 money, of any person, &c. carrying on the business of
 bankers, to be payable to bearer on demand; or shall
 have in his possession any plate with the hair-strokes or *Or having such in any man's possession.*
 other delineation of any subscription traced thereon,
 subjoined to any such bill of exchange, &c. and shall
 not be able to prove that such plate came into his pos-
 session without his knowledge or consent, such offender
 shall, for the 1st offence, be imprisoned for any time not
 exceeding 3 years nor less than 12 months, and, for
 the 2nd offence, be transported for 7 years.

With respect to the bank of England in particular: *Forging, &c. notes, &c. of the bank of England, a capital felony.*
 The 45 Geo. 3. c. 89. G. B. (which supersedes the 15 *45 Geo. 3. c. 89. s. 2. G. B.*
 Geo. 2. c. 13. s. 11. Eng. and 41 Geo. 3. c. 39. E.)
 enacts (s. 2.) that if any person shall forge, counterfeit,
 or alter any bank note, bank bill of exchange, dividend
 warrant, or any bond or obligation under the common
 seal of the governor and company of the bank of Eng-
 land, or any indorsement thereon, or shall offer or dis-
 pose of, or put away any such forged, counterfeit, or
 altered note, bill, dividend warrant, or any bond or ob-
 ligation under the common seal of the governor and
 company of the bank of England, or any indorsement
 thereon, or demand the money therein contained or pre-
 tended to be due thereon, or any part thereof, of the
 said company, or any their officers or servants, knowing
 such note, &c. or the indorsement thereon, to be forged,
 counterfeited, or altered, with intent to defraud the said
 governor and company, or their successors, or any other
 person or body corporate, every such offender shall be
 guilty of felony without benefit of clergy. And by s. 3.
 if any person (other than the officers, workmen, servants, s. 3.
 or agents for the time being of the governor and com- *Making, &c. any mould, &c. for making the paper of the bank of England herein described;*
 pany of the bank of England, to be authorized by them,
 and for their use), shall make or use, or cause or pro-
 cure

* "Or" is the word in the printed statute.

*Or manufactur-
ing, &c. such
paper.*

*Or causing the
numerical sum,
&c. to appear in
such paper, or to
appear in Ro-
man letters; a
felony, punisha-
ble with trans-
portation.*

s. 4.

Proviso.

s. 5.

cure to be made or used, or knowingly aid or assist in the making or using, or (without being authorized as aforesaid) shall knowingly have in his custody or possession without lawful excuse, (the proof whereof shall lie upon the party accused) any frame, mould, or other instrument for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount, expressed in a word or words in Roman letters visible in the substance of such paper; or shall manufacture, make, use, vend, expose to sale, publish or dispose of, or cause or procure to be manufactured, &c. or aid or assist in the manufacturing, &c. or, (without being authorized as aforesaid) shall knowingly have in his custody or possession any paper whatsoever with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or having any number, sum, or amount expressed in a word or words in Roman letters, appearing visible on the substance of such paper; or if any person, (except as before excepted) shall, by any art, mystery, or contrivance, cause or procure the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words to appear visible in the substance of the paper whereon the same shall be written or printed, or shall knowingly aid or assist in causing the numerical sum or amount of any bank note, &c. in a word or words in Roman letters to appear visible in the substance of the paper whereon the same shall be written or printed, every such offender shall be adjudged a felon, and be transported for 14 years. Provided (s. 4.) that nothing herein shall extend to restrain any person from issuing or negotiating any bill of exchange or promissory note, having the sum or amount thereof expressed in guineas, or in a numerical figure or figures denominating the amount thereof in pounds sterling, appearing visible on the substance of the paper upon which the same shall be written or printed. And by s. 5. nothing in this act shall restrain any person from

from making, using, vending, exposing to sale, publishing or disposing of any paper having waving or curved lines, or any other devices in the nature of water-marks, visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not contrived in such manner as to form the ground-work or texture of the paper, or to imitate or resemble the waving or curved laying wire lines or bar lines of the said paper of the governor or company of the bank of England, or to imitate or resemble the water-marks used by the said governor and company in the bank notes, bank bills of exchange, and bank post bills issued by said governor and company. By s. 6. if any person shall purchase or

Proviso.

s. 6.

receive from any other person, any forged or counterfeited bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged or counterfeited; or shall knowingly or wittingly have in his possession or custody, or in his dwelling-house, out

*Purchasing
forged notes,
&c. or having
them in any per-
son's possession,
knowingly, a
felony, punisha-
ble with trans-
portation.*

house, lodgings or apartments, any forged or counterfeited bank note, &c. knowing the same to be forged, &c. without lawful excuse, (the proof whereof shall lie upon the person accused) every such offender shall be adjudged a felon, and be transported for 14 years. And

by s. 7. if any person shall engrave, cut, etch, scrape, or by other means or device make, or cause or procure

s. 7.

to be engraved, &c. or shall knowingly aid or assist in the engraving, &c. in or upon any plate of copper, brass, steel, pewter, or other metal or mixture of metals,

*Engraving, &c.
plates with notes
&c. of bank of
England;*

or upon any wood or other materials, or any plate whatsoever, any bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, purporting to be the note or bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of the note, or bill of exchange, or bank post bill, of the governor and company of the bank of England; or shall use any such plate so engraved, &c.; or shall use any other instrument or device

for

Or using other device for that purpose.

Or knowingly uttering any blank bank notes &c. of said bank;

A felony punishable with transportation.

s. 8.

13 Geo 3. c. 79.
s. 1. Eng.

Any person making or using, or having in his possession knowingly, any frame, &c. for making paper with the words, "Bank of England" visible.

Or being accessory thereto.

Or using other device for that purpose;

Guilty capitally.

s. 2.

for the making or printing any such bank note, &c. or part of a bank note, &c. without such authority in writing as aforesaid; or if any person shall, without such authority as aforesaid, knowingly have in his custody any such plate, instrument, or device; or shall, without such authority as aforesaid, knowingly and wilfully utter, publish, dispose of, or put away any such blank bank note, blank bank bill of exchange, or blank bank post bill, or part of such bank note, bank bill of exchange, or bank post bill, every such offender shall be adjudged a felon, and be transported for 14 years. By s. 8. all the provisions of this act shall extend to every part of Great Britain. The 13 Geo. 3. c. 79. Eng. also enacts, that if any person, (other than the officers, workmen, servants, or agents for the time being of the governor and company of the bank of England, to be authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall make or use, or cause or procure to be made or used, or knowingly aid or assist in the making or using; or (without being authorized and appointed as aforesaid) shall knowingly have in his custody or possession, without lawful excuse, (the proof whereof shall lie upon the person accused) any frame, mould, or instrument for the making of paper, with the words "Bank of England" visible in the substance of such paper; or shall make, or cause or procure to be made, or knowingly aid or assist in the making any paper, in the substance of which said words, "Bank of England" shall be visible; or if any person (except as before excepted) shall, by any art, mystery, or contrivance, cause or procure the said words, "Bank of England" to appear visible in the substance of any paper, or knowingly aid or assist in causing the said words, "Bank of England" to appear in the substance of any paper; every such offender shall be guilty of felony without benefit of clergy. And by s. 2. if any person, without being authorized as aforesaid, shall engrave, cut, etch, or scrape in mezzotinto, or shall cause or procure to be engraved, &c. in mezzotinto, or shall knowingly aid or assist in the engraving, &c. in mezzotinto, in or upon any plate of

of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood, or any other material, or any plate whatsoever, any promissory note, inland bill, or bill of exchange, containing the words "Bank of England" or "Bank Post Bill," or any word expressing the sum or amount, or any part of the sum or amount of such promissory note, &c. in white letters or figures on a black ground; or shall use any such plate so engraved, &c. in mezzotinto, or shall use any other instrument for the making or printing any such promissory note, &c. or blank promissory note, &c. or part of a promissory note, &c.; [**or*] if any person (without being authorized as aforesaid,) shall knowingly have in his custody any such plate or instrument, or shall knowingly and wilfully utter or publish any such promissory note, &c. or blank promissory note, &c.; every such offender shall be committed to the common gaol of the county or place where the offence shall be committed, for any space not exceeding 6 months. Provided (s. 3.) that nothing herein shall extend to such person, who being, hereafter, possessed of any such note or bill, shall only utter the same by carrying the same for payment to the issuer, drawer, acceptor, or indorser thereof, or using proper means to compel the payment of such note or bill.

Engraving plates, &c. with the words "Bank of England" or Bank Post Bill, &c. in white letters or figures on black ground;

Or using such plate, &c. or other device;

** This word omitted in the printed statute.*

Or uttering such notes, &c.

How punished.

s. 3.

Proviso.

And in Ireland it is enacted by the 38 Geo. 3. c. 53. Ir. (which repeals in part the 37 Geo. 3. c. 26. Ir) that if any person shall forge, counterfeit, or alter, or cause or procure to be forged, &c. or act or assist in the forging, &c. any bank note of the governor and company of the bank of Ireland, [*†*or any indorsement of any bank note of the said governor and company,] or any bank bill of exchange of the said governor and company, or acceptance or indorsement of any bank bill of exchange, of the said governor and company, or any bank post bill of the said governor and company, or acceptance or indorsement of any bank post bill of the said governor and company; or shall alter, or cause or procure to be altered, or act or assist in the altering the number

Forging, &c. bank note, &c. of the bank of Ireland;

38 Geo. 3. c. 53 s. 2. Ir.

Or altering, &c. any part of such bank note, &c.

† There is a repetition of this clause in the printed statute, which seems to be a misprint, or erroneous.

*Or offering or
disposing of, &c.
such bank note,
&c.*

*Or being neces-
sary thereto ;*

A capital felony

s. 3.

*Making, &c.
any frame, &c.
for making pa-
per with the
words, " Bank
of Ireland"
visible therein ;*

number or principal sum, or any other part of any such bank note, bank bill of exchange, or bank post bill, with intention to defraud the said governor and company, or their successors, or any person whomsoever, or with any fraudulent intention whatsoever; or shall offer or dispose of, or put away any forged, &c. bank note of the said governor and company, or any forged, &c. indorsement of any bank note of said governor and company, or any forged, &c. bank bill of exchange of said governor and company, or any forged, &c. indorsement of any bank bill of exchange of said governor and company, or any forged, &c. bank post bill of the said governor and company, or any forged, &c. indorsement of any bank post bill of said governor and company; or any bank note, bank bill of exchange, or bank post bill of the said governor and company, in which the principal sum or number has been falsely altered, or shall demand the money in such bank note, &c. contained, or pretended to be due thereon, or any part thereof, of the said governor and company, or of any of their clerks, agents, officers, or servants, with intention to defraud the said governor and company, or their successors, or any other person, or with any fraudulent intention, knowing the same to be forged, &c.; or shall aid, abet, assist, hire, or command any person to commit such offence; every such offender shall be guilty of felony without benefit of clergy. And by s. 3. if any person (other than an officer, workman, servant, or agent for the time being of the governor and company of the bank of Ireland, authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall make or use, or cause or procure to be made or used, or knowingly aid or assist in making or using, or (without being authorized as aforesaid) shall knowingly have in his custody or possession without lawful excuse, (the proof whereof shall be on the person accused) any frame, mould, or instrument for the making of paper, in the substance whereof would be visible the words, " Bank of Ireland" or the greater part of such words, or on the substance whereof would be visible any device or distinction peculiar

peculiar to and appearing in the substance of the paper used by said governor and company, for notes and bills of exchange of the bank of Ireland, shall be visible; or if any person (except as before excepted) shall knowingly have in his custody or possession, without lawful excuse, (the proof whereof shall be on the person accused) any paper whatsoever, in the substance of which the words, "Bank of Ireland," or the greater part of such words, or any device or distinction peculiar to, and appearing in the substance of paper used by the said governor and company for notes or bills of exchange of the bank of Ireland, shall be visible; or if any person (except as before excepted) shall, by any art, mystery or contrivance, cause or procure, or knowingly aid or assist in causing or procuring the words "Bank of Ireland" or the greater part of such words, or any device or distinction peculiar to, and appearing in the substance of the paper used by the said governor and company, for notes or bills of exchange of the bank of Ireland, to appear in the substance of any paper whatsoever, every such offender shall be adjudged a felon, and shall be transported for the term of his life. And by

Or knowingly having any such paper in any person's possession;

Or by any art causing any device peculiar to bank of Ireland paper, to appear in the substance of any paper, without authority;

A felony punishable with transportation.

s. 4. if any person (other than an officer, workman, servant, or agent for the time being, of the governor and company of the bank of Ireland, authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall make or use, or cause to be made or used, or knowingly aid or assist in making or using, or (without being authorized as aforesaid,) shall knowingly have in his custody or possession, without lawful excuse, (the proof whereof shall be on the person accused,) any plate, or instrument of metal or wood, or of any other materials, in or upon which there shall be, or be made or impressed, or which would make or impress the form of words, or any part of the form of words imprinted or impressed on, or used in any notes or bills of exchange of the said governor and company, or any stamp or instrument of metal or wood, or other materials, upon which there shall be, or be made or impressed, or which would make or impress any of the devices

Making or using or having in any persons possession, without lawful excuse, any frames, &c. for making the peculiar form of words or devices of bank of Ireland paper, a felony, punishable with transportation.

s. 4.

devices, distinctions, or flourishes, printed or ingrossed on any notes or bills of exchange of the said governor and company, every such offender shall be adjudged a felon, and be transported for the term of his life. By

s. 5.

Any person having forged note, &c. of bank of Ireland, with intent to utter, how punished.

s. 5. any person who shall have in his possession or custody any forged or counterfeited note or bill of exchange of the governor and company of the bank of Ireland, knowing the same to be forged, &c. with an intent to utter or negotiate the same as the true and genuine note or bill of exchange of the said governor and company, shall be punished by fine, imprisonment, pillory, or other corporal punishment, according to the discretion of the court before [*whom] he shall be prosecuted. By s. 6. upon oath being made before a justice of peace, by a credible person, that there is just

* This word omitted in the printed statute.

s. 6.

Justices, upon information on oath, may search houses, &c. for forged notes, &c. frames, &c.

cause to suspect that any person hath been concerned in forging or counterfeiting any note or bills of the said governor and company, or in making or using any frame, mould or instrument for making paper in imitation of the paper used in notes or bills of the said governor and company, or in making such paper, or in engraving or cutting any plate of metal or wood, or of other materials, upon which should be, or be made or impressed, or which would make or impress as aforesaid the form of words printed on, or used in any notes or bills of the said governor and company, or any part of such form, or in engraving or cutting any stamp or instrument, on which shall be, or be made or impressed, or which would make or impress any of the devices, distinctions, or flourishes printed or engraved on the notes and bills of exchange of the said governor and company; or upon oath being made before such justice as aforesaid, that there is reason to suspect that any of the hereinbefore mentioned tools or instruments, or any paper made in imitation of the paper used by the said governor and company as aforesaid, are knowingly concealed or secreted by any person; in such cases it shall be lawful for such justice, or any person empowered by warrant under his hand and seal, to search the dwelling-house, room, work-shop, out-house, yard, garden, or other place belonging to such suspected person, for such

forged

forged notes or bills, frame, mould, or instrument, paper, or plate; and if any such be found in any such place so searched, or be found in the custody or possession of any person not then employed by said governor and company, nor having the same by some lawful authority, then any person discovering the same, shall seize the same, and carry them to some justice of peace of the county, city, or place where the same shall be seized, and shall cause the same to be so secured that the same shall be forthcoming to be produced in evidence against such person as shall be prosecuted for any of the offences aforesaid, and after such time as such forged note, &c. shall have been produced in evidence, as well the same so produced, as the others so seized, and not made use of in evidence, shall forthwith, by order of the court where such offender shall be tried, or by order of such or some other justice of peace, in case there be no such trial, be defaced and destroyed, or otherwise disposed of, as such court or justice shall direct. Provided (s. 7.) that persons offending before the passing of this act against that part of the 37 Geo. 3. c. 26. hereby repealed, shall be proceeded against and punished (*viz.* be adjudged a felon, and be transported for life) as if this act had not been passed. But the following clauses of the 37 Geo. 3. c. 26. Ir. remain unrepealed, and are proper for this place. This statute, for preventing injury to public credit by unwary and other persons taking in payment, and otherwise receiving notes, inland bills, and bills of exchange, with certain words and characters so nearly resembling notes and bills of the said governor and company of the bank of Ireland, as to appear to such person to be notes or bills of the bank of Ireland; and for preventing the practice of shop-keepers and others making use of notices, advertisements, or other papers, in their outward form similar to notes of the bank of Ireland, engraved with flourishes and devices in the margin, and with a certain number in white letters on a black or any dark ground, in the manner the sum or value of the notes of the bank of Ireland is expressed at the foot thereof, and in other respects resembling the same, by which frauds may

s. 7.

*Proviso.*37 Geo. 3. c. 26.
s. 2. Ir.*Engraving, &c.
any plate, &c.
with any note
containing the
words, "bank of
Ireland," &c.*

*Or any word
expressing the
sum, &c. in
white letters or
figures on a
black ground.*

*Or using or hav-
ing such plates,
&c. in any per-
son's custody.*

*Or uttering such
notes, &c. ;*

How punished.

s. 3.

Proviso.

may be, and have been committed on ignorant or illiterate persons," enacts (s. 2.) that if any person, (other than the officers, workmen, servants, or agents for the time being of the said governor and company, to be authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall engrave, cut, etch, scrape in mezzotinto, or shall cause or procure to be engraved, &c. or shall knowingly aid or assist in the engraving, &c. in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood, or any other material, or any plate whatsoever, any promissory note, inland bill, or bill of exchange, or blank promissory note, &c. or part of a promissory note, &c. containing the words, "bank of Ireland," or "bank post bill," or any word or words expressing the sum or amount, or any part of the sum or amount of such promissory note, &c. in white letters or figures, on a black or dark ground, or any notice or advertisement from any shop-keeper or other person, with flourishes or devices in the margin, or any number thereon in white letters or figures, on a black or dark ground; or shall use any such plate so engraved, cut, etched, or scraped in mezzotinto, or shall use any other instrument for the making or printing any such promissory note, inland bill, or bill of exchange, or blank promissory note, inland bill, or bill of exchange, or notice or advertisement; and if any person (without being authorized as aforesaid) shall knowingly have in his custody, any such plate or instrument, or shall knowingly and wilfully utter or publish any such promissory note, inland bill, or bill of exchange, blank promissory note, inland bill, or bill of exchange, or utter or disperse any such notice or advertisement, every such offender, being convicted according to law, shall be fined in any sum not exceeding £50. or be committed to the common gaol of the county or place where the offence shall be, for any time not exceeding 6 months. Provided (s. 3.) that nothing herein shall extend to any person who being at any time hereafter possessed of any such note or

or bill, shall only utter the same, by carrying the same for payment to the issuer, drawer, acceptor, or indorser thereof, or using proper means to compel the payment of such note or bill. And by s. 4. nothing herein shall extend to any promissory notes or bills of exchange, executed and dated before the 1st day of June, 1797, or to prevent or affect the uttering, negotiating, receiving, or paying the same, save only by the makers thereof. By the 39 Geo. 3. c. 63. s. 2. Ir. if any person shall falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, &c. or act, aid, or assist in the falsely making, &c. any bank note of the governor and company of the bank of England, or any assignment or indorsement of any bank note of the said governor and company, or any bank bill of exchange of the said governor and company, or any acceptance or assignment or indorsement of any bank bill of exchange of the said governor and company, or any bank post bill of the said governor and company, or any acceptance, assignment, or indorsement of any bank post bill of the said governor and company; or shall alter, or cause or procure to be altered, or act, aid or assist in the altering the number or principal sum, or any other part of any such bank note, bank bill of exchange, or bank post bill, whether such bank note shall be assigned or indorsed, or not, or whether such bank bill of exchange, or bank post bill, shall be accepted, or assigned or indorsed, or not; with intention to defraud the said governor and company, or any person, or body corporate, or with any fraudulent intention whatsoever; or shall offer, or dispose of, or put away any false made, forged, counterfeited or altered bank note of the said governor and company, or any false, &c. assignment or indorsement of any bank note of the said governor and company, or any false, &c. bill of exchange of the said governor and company, or any false, &c. assignment or indorsement of any bank bill of exchange of said governor and company, or any false, &c. bank post bill of the said governor and company, or any false, &c. assignment or indorsement of any bank post bill of the said

s. 4.

*Proviso.*39 Geo. 3. c. 63.
s. 2. Ir.*Forging, &c.
any bank note,
&c. of the bank
of England; or
uttering any
such forged or
altered note, &c.
a capital felony
in Ireland.*

*And accessories
also guilty ca-
pitally.*

s. 3.

*Making or using
any frame, &c.
for making pa-
per with the
words "Bank of
England," &c.
or other device
visible therein ;*

*Or making, &c.
any such paper ;*

said governor and company, or any bank note, bank bill of exchange, or bank post bill of the said governor and company, in which the principal sum or number, or any other part of any such bank note, or any assignment or indorsement thereof, or in which the principal sum or number, or any other part of any such bank bill of exchange, or bank post bill, or any acceptance, assignment or indorsement thereof, has been falsely altered, with intention to defraud the said governor and company, or any other person, or any body corporate, or with any fraudulent intention whatsoever, knowing the same to be false, &c. ; or shall act in, aid, abet, assist, hire or command, or procure or persuade, or endeavour to procure or persuade any person to commit any such offence, every such offender shall be guilty of felony without benefit of clergy. And by s. 3. if any person (other than an officer, workman, servant, or agent for the time being of the governor and company of the bank of England, authorized and appointed for that purpose by the said governor and company, and for the use of the said governor and company only) shall make or use, or cause or procure to be made, &c. or (without being authorized as aforesaid,) shall knowingly have in his custody or possession, or in his house, or out-house, dwelling-place, lodgings or apartments, without lawful excuse, (the proof whereof shall lie on the person accused) any frame, mould, or instrument for the making of paper, with the words, "bank of England" or with the greater part of such words visible in or upon the substance of such frame, &c. or in or upon the substance of any of which shall be visible, any device or distinction peculiar to, and appearing in the substance of the paper, used or to be used by the governor and company of the bank of England for notes or bills of exchange, or bank post bills of the bank of England ; or shall make, or cause or procure to be made, or knowingly act, aid, or assist in making, or causing or procuring to be made, any paper in the substance of which the said words, "bank of England," or the greater part of such words, or any device or distinction peculiar to, and

and appearing in the substance of the paper used or to be used by the said governor and company for the time being, for notes or bills of exchange, or bank post bills of the bank of England, shall be visible; or if any person, except as before excepted, shall knowingly have in his custody or possession, or in his house, out-house, dwelling-place, lodgings or apartments, without lawful excuse, (the proof whereof shall lie on the person accused) any paper, in the substance of which the words, "bank of England" or the greater part of such words, or any device or distinction peculiar to, and appearing in the substance of the paper used or to be used by the said governor and company, for notes or bills of exchange, or bank post bills of the bank of England, shall be visible; or if any person (except as before excepted) shall by any [*act,] mystery, or contrivance, cause or procure, or knowingly act, aid, or assist in causing or procuring the words, "bank of England," or the greater part of such words, or any device or distinction peculiar to, and appearing in the substance of the paper used or to be used by the governor and company of the bank of England, for notes or bills of exchange, or bank post bills of the bank of England, to appear in the substance of any paper whatsoever, every such offender shall be adjudged a felon, and shall be transported for the term of his life. By s. 4. if any person (other than an officer, &c. of the said governor and company, authorized by them for that purpose, and for their use only) shall make or use, or cause or procure to be made or used, or knowingly act, aid or assist in making or using, or procuring to be made or used, or (without being authorized as aforesaid) shall knowingly have in his custody or possession, house, out-house, dwelling-place, lodgings or apartments, without lawful excuse, (the proof whereof shall lie on the person accused) any plate or instrument of metal or wood, or of any other materials, in or upon which there shall be, or be made or impressed, or which would make or impress the form of words, or any part of the form of words, imprinted or impressed upon, or used or to be used in any notes or

Or unlawfully having any such paper in any person's house, &c.

** Que ? "Art."*

Or by any means causing any peculiar device in bank of England notes, &c. to appear in paper.

A felony punishable with transportation.

s. 4.

Making, &c. any plate, &c. on which shall be imprinted any words, &c. of bank of England notes, &c. a felony.

bills of exchange, or bank post bills of the said governor and company, or any stamp or instrument of metal or wood, or of any other materials, upon which there shall be, or be made or impressed, or which would make or impress any of the devices, distinctions, or flourishes, printed or engraved, or to be printed or engraved upon or in any notes or bills of exchange, or bank post bills of the said governor and company, every such offender shall be adjudged a felon, and be transported for his life. By s. 5. if any person shall have in his possession

How punished.

s. 5.

Any person having any forged note, &c. of the bank of England in his possession, &c. with intent to utter it, how punished.

or custody, house, out-house, dwelling-place, lodgings or apartments, any forged or counterfeited note, bill of exchange, or bank post bill, or any forged or counterfeited note, &c. purporting to be the note, &c. of the governor and company of the bank of England, knowing the same to be forged, &c. with an intent to utter or negotiate the same as the true and genuine note, &c. of the said governor and company, every such offender shall be punished by fine and imprisonment, pillory, or other corporal punishment, according to the discretion of the court before whom he shall be prosecuted for such offence; and if such person shall be convicted a 2nd time of the like offence of having in his possession, &c. any forged or counterfeited note, &c. of the governor and company of the bank of England, or any forged or counterfeited note, &c. purporting to be the note, &c. of the said governor and company, knowing the same to be forged, &c. with an intent to utter and negotiate the same as true and genuine as aforesaid, he shall, for such 2nd offence, be adjudged a felon, and transported for his life. By s. 6. upon oath being

Second offence, a felony;

How punished.

s. 6.

Justices, &c. may search person, house, &c. for forged notes, &c. frames, &c.

that there there is just cause to suspect that any one person, or more, hath or have been concerned in the false making, forging or counterfeiting any note or bill of exchange, or bank post bill of the said governor and company, or in offering, disposing of, or putting away any false-made, forged, or counterfeited note, &c. or any false made note, &c. purporting to be the note, &c. of the said governor and company, or in making or using any frame, mould, or instrument, or making paper

paper in imitation of the paper used or to be used in notes or bills of the said governor and company, or in making such paper, or in engraving or cutting any plate of metal or wood, or other materials, upon which shall be, or be made or impressed, or which would make or impress as aforesaid the form of words printed on or used, or to be printed or used in any notes or bills, of the governor and company of the bank of England, or any part of such form, or in engraving or cutting any stamp or instrument upon which shall be, or be made or impressed, or which would make or impress any of the devices, distinctions, or flourishes, printed or engraved, or to be printed or engraved on the notes and bills of exchange, or bank post bills of the said governor and company; or upon oath being made before such justice as aforesaid, that there is reason to suspect that any of the herein-before mentioned tools or instruments, or that any paper made in imitation of the paper used or to be used by the said governor and company as aforesaid, are knowingly concealed or secreted by any person; in such cases it shall be lawful for such justice, or any person empowered by his warrant, to search the person, clothes, furniture, dwelling-house, room, work-shop, out-house, yard, garden, or other place belonging to such suspected person, or wherein he shall have resided, worked, lodged, used, lived, or have had access to, for such forged notes or bills, frame, mould, or instrument, paper or plate; and if any such be found in any place so searched, or in the possession of any person not then employed by said governor and company, nor having the same by some lawful authority, then any person discovering the same shall seize and carry them forthwith to some justice of peace of the county, &c. where the same shall be seized, and shall cause the same to be so secured that the same shall be forthcoming, to be produced in evidence against such person as shall be prosecuted for any of the offences aforesaid; and after such forged note, bill, frame, mould or instrument, paper or plate, shall have been produced in evidence, as well the same so produced as the others so seized and not made use of in evidence, shall, forthwith, by order of the

How the same if found shall be disposed of.

s. 7.

*First conviction
for having forged
notes, &c. in
a person's pos-
session with in-
tent to utter,
how certified.*

court where such offender shall be tried, or by order of such or some other justice of peace, in case there be no such trial, be defaced and destroyed, or otherwise disposed of as such court or justice shall direct. And by s. 7. if any person shall be convicted of having in his possession or custody, any false made, forged, or counterfeited note, bill of exchange, or bank post bill of the said governor and company, or any false made, &c. note, &c. purporting to be the note, &c. of the said governor and company, knowing the same to be forged, &c. with an intent to utter or negotiate the same, as the true and genuine note, &c. of the said governor and company, and shall afterwards be convicted of the like offence in any other county or city, the clerk of the crown or clerk of the peace, or their respective deputy for the county or city where such first conviction was so had, shall, at the request of the prosecutor, or any other on his majesty's behalf, certify the same under his hand and seal, by transcript in a few words containing the effect and tenor of such conviction; (for which certificate 13s. 4d. shall be paid;) and such certificate, being produced in court, shall be sufficient proof of such former conviction. By s. 8. the governor and company of the bank of England for the time being, shall, upon all trials of any action, suit, bill, plaint, information, or indictment, in this kingdom, be deemed to be an existing corporation to all intents and purposes; and this act shall be deemed a public act.

s. 8.

*Governor and
company of bank
of England to be
deemed a cor-
poration.*

*Forging, &c.
note, &c. of any
foreign state, or
of any company,
&c. in any so-
vereign country, a
felony punish-
able with trans-
portation.*

43 Geo. 3. c. 139.
s. 1. U. K.

By the 43 Geo. 3. c. 139. U. K. if any person within the united kingdom of Great Britain and Ireland, falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or knowingly aid or assist in the false making, &c. any bill of exchange, or any promissory note, undertaking, or order for the payment of money, purporting to be the bill of exchange, &c. of any foreign prince, state, or country, or of any minister or officer entrusted by or employed in the service of any foreign prince, state, or country, or of any person or company of persons resident in any foreign state or country, or of any body corporate, and
body

body in the nature of a body corporate, created or constituted by any foreign prince or state, with intent to deceive or defraud his majesty, &c. or any such foreign prince, state, or country, or with intent to deceive or defraud any person or company of persons, or any body corporate, or body in the nature of a body corporate, whether the same be respectively resident, carrying on business, constituted or being in any part of the united kingdom, or in any foreign state or country; and whether such bill of exchange, promissory note, or order be in the English language, or in any foreign language, or partly in one and partly in the other; or if any person shall within any part of the united kingdom, tender in payment or in exchange, or otherwise utter or publish as true, any such false, forged, or counterfeited bill of exchange, promissory note, undertaking, or order, knowing the same to be false, &c. with intent to deceive or defraud his majesty, &c. or any foreign prince, &c. or any person or company of persons, or any body corporate, or body in the nature of a body corporate, every such offender shall be guilty of felony, and be transported for any term of years not exceeding 14. And by s. 2. no person shall within the united kingdom, engrave, cut, etch, scrape, or by any other means or device, make, or knowingly aid or assist in the engraving, &c. in or upon any plate, any bill of exchange, or any promissory note or undertaking, or order for the payment of money, purporting to be the bill of exchange, &c. of any foreign prince, state, or country, or of any minister or officer entrusted by or employed in the service of any foreign prince, &c. or of any person, or company of persons, resident or being in any foreign state or country, or of any body corporate, or body in the nature of a body corporate, or constituted by any foreign prince or state, or any part of any such bill of exchange, &c. without an authority in writing for that purpose from such foreign prince, &c. or from some person duly authorized to give such authority; or shall within any part of the united kingdom, without such authority

s. 2.

*Engraving, &c.
upon any plate,
any foreign bill,
&c.;*

Or by any device making, &c. such bill, &c.;

Or being possessed of any such plate, &c.;

How punished.

Forging, &c. the seal, &c. of the South Sea Company, a capital felony.

9 Ann. c. 21. s. 57. Eng.

6 Geo. 1. c. 4. s. 56. Eng.

6 Geo. 1. c. 11. s. 50. Eng.

Forging receipts, &c. of S. S. Company, a capital felony.

authority as aforesaid, by means of any such plate, or by any other device or means, make or print any such foreign bill of exchange, &c. or any part thereof, or knowingly, wilfully, and without lawful excuse, (the proof whereof shall lie upon the party accused,) have in his custody any such plate or device, or any impression taken from the same; and if any person shall offend in any of the cases aforesaid, he shall be guilty of a misdemeanor and be liable, for the 1st offence, to be imprisoned for any time not exceeding 6 months, or to be fined, or to be publicly or privately whipped, or to suffer one or more of said punishments, and for the 2nd offence to be transported for 14 years. Provided that nothing herein shall repeal or alter any law or statute now in force for the punishment of forgery, within any part of the united kingdom. The clauses (s. 4 & 5.) of this act, which have been already stated, *ante* p. 501. are to be here also referred to.

With respect to the securities of certain public companies: The 9 Ann. c. 21. s. 57. Eng. and 6 Geo. 1. c. 4. s. 56. Eng. respectively enact, that if any person shall forge or counterfeit the common seal of the South Sea Company; or shall forge, counterfeit, or alter any bond or obligation under their common seal, or shall offer to dispose of or pay away any such forged, counterfeited, or altered bond, knowing the same to be such; or shall demand the money therein contained or pretended to be due thereon, or any part thereof, of the said company, or any of their officers, knowing such bond, &c. to be forged, &c.; with intent to defraud the said company, or their successors, or any other person; he shall be guilty of felony without benefit of clergy. And the 6 Geo. 1. c. 11. Eng. recites (s. 50.) that the South Sea Company may issue out receipts under the hand or hands of one or more of their officers, from time to time, upon or for subscriptions to be by the said company taken for increasing their capital stock, pursuant to an act of the same session; and may also issue out warrants under the hand or hands of one or more of their

their officers for the dividend from time to time to be made to the proprietors of the stock in said company; and enacts, that if any person shall forge, counterfeit, or alter any such receipt, warrant, or indorsement or writing thereupon or therein; or shall tender any such forged, &c. receipt or warrant, or any such receipt or warrant with such counterfeit indorsement or writing thereon or therein, (knowing the same to be so forged, &c.) to the said company, or any of their officers, or shall offer to alienate or dispose of the same, knowing the same to be so forged, &c. and with intent to defraud the said company, or any other person or body corporate, he shall be guilty of felony without benefit of clergy. And by the 12 Geo. 1. c. 32. s. 9. Eng. if any person shall forge or counterfeit, or procure to be forged, &c. or willingly act or assist in the forging, &c. any indorsement or assignment on any bond or obligation under the common seal of the governor and company of merchants, &c. trading to the South Seas, &c.; or shall utter or publish any such, knowing the same to be forged, &c. with intention to defraud any person, he shall be guilty of felony without benefit of clergy.

12 Geo. 1. c. 32.
s. 9. Eng.

*Forging, &c.
bond of S. S.
Company, or in-
dorsement. &c.
thereof, a ca-
pital felony.*

And this clause of the 12 Geo. 1. c. 32. Eng. also enacts, that if any person shall forge or counterfeit, or procure to be forged, &c. or willingly act or assist in the forging, &c. any bond or obligation under the common seal of the united company of merchants, &c. trading to the East Indies, or any indorsement or assignment thereon; or shall utter or publish any such, knowing the same to be forged, &c. with intention to defraud any person whatsoever, he shall be guilty of felony without benefit of clergy. The 6 Geo. 1. c. 18. Eng. contains a clause with respect to the forging, &c. the common

12 Geo. 1. c. 32.
s. 9. Eng.

*Forging bond,
&c. of East In-
dia Company, a
capital felony.*

seal of the London and Royal Exchange Assurance Companies, or any policy, bill, bond, or obligation under the common seal of either of said corporations, similar to that of the 9 Ann. c. 21. and 6 Geo. 1. c. 4, *supra*.*

6 Geo. 1. c. 18.
s. 13. Eng.

*Forging seal,
&c. of the Lon-
don and Royal
Exchange As-
surance Com-
panies, a capital
felony.*

And

* And it is in like manner made a capital felony to forge, &c. the policies &c. of the Globe Insurance Company, 2 East P. C. p. 886.

38 Geo.3. c.17.
Eng.

*Forging seal,
&c. of British
Cast Plate Glass
Manufactory, a
single felony.*

*Forging, &c.
any letter of
attorney to
transfer, &c.
public funds or
stock;*

8 Geo.1. c. 22.
s. 1. Eng.

31 Geo.2. c.22.
s. 77. Eng.

*Or to receive
dividend, &c.;*

*Or forging, &c.
the name of any
proprietor to
such letter of
attorney, &c.;*

And the 38 Geo.3. c. 17. Eng.* may be here also referred to, which revives the 13 Geo. 3. c. 38. Eng. and makes it a single felony to forge the seal of the governor and company of the British Cast Plate Glass Manufactory, or any deed or writing under their common seal, or to demand any money in pursuance of such forged deed or writing, with intent to defraud the said corporation, or any other person whatsoever. I have not observed that any trading companies or corporations in Ireland, are protected in a similar manner against the forgery of their seals, securities, &c.

Next as to forgery with relation to the transfer of the public funds, and the stock of public companies: The 8 Geo. 1. c. 22. s. 1. Eng. as explained or amended by the 31 Geo. 2. c. 22. s. 77. Eng. enacts, that if any person shall forge or counterfeit, or procure to be forged, &c. or knowingly and wilfully act or assist in the forging or counterfeiting any letter of attorney, or other authority or instrument, to transfer, assign, sell or convey any share, or any part of any share, of or in any capital stock or funds of any body corporate established, or which shall be established, by any act of parliament; [*or to receive any dividend attending any share, or any part of any share of or in any such capital stock or funds; or to receive any annuity in respect whereof any proprietor hath or shall have any transferrable share of or in any capital stock established or to be established by act of parliament, in proportion to such annuity;] or shall forge or counterfeit, or procure to be forged, &c. or knowingly and wilfully act or assist in the forging, &c. any name of any proprietor of such share in stock, or of any person entitled to any such annuity or dividend, in or to any such pretended letter of attorney, instrument, or authority; or shall knowingly or fraudulently

* To be found amongst the public, local, and personal acts.

† Instead of the clause within the crotchets, the words of the 4 Geo. 3. c. 25, s. 15. Eng. are, "or to receive any such annuity, or any dividend, attending such shares, or any of them, or any part thereof."

dulently demand, or endeavour to have any such share
 in stock, or any part thereof, transferred, assigned, sold
 or conveyed, or such annuity or dividend, or any part
 thereof, to be received by virtue of any such counter-
 feit letter of attorney, &c.; or shall falsely and deceit-
 fully personate any true and real proprietors of the said
 shares in stock annuities and dividends, or any of them,
 or any part thereof, and thereby transferring or endea-
 vouring to transfer the stock, or receiving or endeavour-
 ing to receive the money of such true and lawful pro-
 prietor, as if such offender were the true and lawful
 owner thereof; every such person shall be guilty of
 felony without benefit of clergy. And the 4 Geo. 3. c. 25. Eng. contains the like clause, with such variation
 only as is noted in the margin. And the 33 Geo. 3. c. 30. Eng. further enacts, that if any person shall wil-
 fully make, or assist in making, any transfer of any in-
 terest, part or share of or in any stock, annuity, or other
 funds, transferrable at the bank of England, in any of the
 books of the governor and company of the bank of Eng-
 land, in which transfers of stock, &c. are made, in the
 name of any person not being the owner or proprietor
 of such stock, &c. with intent to defraud the said go-
 vernor and company, or any other body corporate, or
 any person whatsoever, such person so making, or as-
 sisting in making such transfer as aforesaid, shall be
 guilty of felony without benefit of clergy. And by s. 2.
 if any person falsely make, forge, or counterfeit, or
 cause or procure to be falsely made, &c. or willingly
 act or assist in the falsely making, &c. of any transfer
 of any interest, part, or share, of or in any stock or an-
 nuity, or other fund transferrable or which by any act of
 parliament shall hereafter be made transferrable at the
 bank of England, or of or in the capital stock belonging
 or which shall belong to the said governor and com-
 pany, called "bank stock;" or shall utter or publish as
 true any such false, forged, or counterfeited transfer as
 aforesaid, knowing the same to be false, &c. with intent
 to defraud the said governor and company, or any other
 body corporate, or any person whatsoever; he shall be
 guilty

*Or making use
of such forged
letter of at-
torney, &c. 3.*

*Or personating
proprietor ;*

A capital felony.

*4 Geo. 3. c. 25.
s. 15. Eng.*

*33 Geo. 3. c. 30.
s. 1. Eng.*

*Making, &c.
transfer of stock,
&c. in the name
of any person
not being the
owner, a
capital felony.*

s. 2.

*Forging, &c.
transfer, &c.
capital felony.*

*Falsifying the
accounts of the
bank of Eng-
land, a capital
felony.*

s. 3.

guilty of felony without benefit of clergy. By s. 3. if any person shall wilfully make, or assist in making any false entry, or shall wilfully alter or assist in altering any word or figure in any entry in the books of account kept by the said governor and company, wherein the several accounts of the owners or proprietors of stock, annuities or other funds, transferrable at the bank of England, are entered and kept, or shall in any manner wilfully falsify the accounts of such owners and proprietors in the books of the said governor and company wherein such accounts are entered, &c. with intent to defraud the said governor and company, or any body corporate, or any person whatsoever, such offender shall be guilty of felony without benefit of clergy. And by

s. 4.

*Clerk, &c. mak-
ing out dividend
&c. for a wrong
sum, fraudu-
lently, how
punished.*

s. 4. if any clerk, officer, or servant of, or other person employed or entrusted by the said governor and company, shall knowingly or willingly make out or deliver, or cause or procure to be made out, &c. or willingly act or assist in the making out, &c. of any dividend warrant for a greater or less amount than the person on whose behalf, or on whose pretended behalf, such dividend warrants shall be made out, is entitled to, with intent to defraud the said governor and company, or any other body corporate, or any person whatsoever, he shall be transported for 7 years. And by the 37 Geo. 3. c. 122.

37 Geo. 3. c. 122.
s. 1. Eng.

*Forging, &c.
letter of attorney
&c. to transfer,
&c. at Bank of
England, of
bank stock,
South Sea, or
East India
stock;*

Eng. if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or shall willingly act or assist in the falsely making, &c. the name or hand-writing of any person as purporting to be the witness attesting the execution of any letter of attorney, or other authority or instrument, to transfer, assign, sell, or convey any interest, part, or share of or in any stock, annuity, or other fund, or the dividends thereof, transferrable, or which by any act of parliament shall hereafter be made transferrable at the bank of England, or of or in the capital stock belonging, or which shall hereafter belong to the governor and company of the bank of England called "bank stock," or to the governor and company of merchants of Great Britain trading to the South Seas and other parts of America, and

and for encouraging the fishing, commonly called "the South Sea Company," or under their care or management, or of or in the capital stock belonging or which shall belong to the united company of merchants of England trading to the East Indies, commonly called East India stock, or of any letter of attorney, or other authority or instrument to receive any dividend on any of the said stocks, annuities, or other funds; or shall utter or publish as true any such letter of attorney, &c. containing such false, forged, or counterfeited name or hand writing of such attesting witness, knowing such name, &c. to be false, &c. every such offender shall be guilty of felony, and be transported for 7 years, or shall be adjudged to suffer such lesser punishment as the court, before whom such offender shall be tried, shall think fit. By s. 2. this shall be deemed a public act, &c. The 35 Geo. 3. c. 66. Eng. (which is an act for making certain stock and annuities created by the parliament of Ireland transferrable, and the dividends thereon payable, at the bank of England,) enacts (s. 5.) that if any person shall forge, counterfeit, or alter, any dividend warrant, or warrant for payment of any annuity, interest, or money, payable in pursuance of this act at the bank of England, or any indorsement thereon, or shall offer, or dispose of, or put away any such forged, &c. dividend warrant, &c. or the said indorsement thereon, or demand the money therein contained, or pretended to be due thereon, or any part thereof, of the said governor and company, or any their officers or servants, knowing such dividend warrant, &c. or indorsement thereon, to be forged, &c. with intent to defraud the said governor and company, or any other body corporate, or person, such offender shall be guilty of felony without benefit of clergy. And this statute contains also clauses similar to those of the 8 Geo. 1. c. 22. s. 1. 31 Geo. 2. c. 22. s. 77. and 33 Geo. 3. c. 30. s. 1. 2. 3 & 4. *supra*, with relation to the stock, &c. transferrable by this act. The 37 Geo. 3. c. 46. Eng. is a statute of a similar nature to the 35 Geo. 3. c. 66. *supra*. And the 37 Geo. 3. c. 54. Ir. (which is an act to enable the proprietors of debentures issued by government, to con-

Or to receive dividend, &c.

A clergyable felony.

s. 2.

35 Geo. 3. c. 66.
s. 5. Eng.

s. 5.

Forging, &c. dividend warrant, &c. a capital felony.

s. 4. 7. 8. & 9.

37 Geo. 3. c. 46.
Eng.

37 Geo. 3. c. 54.
s. 11. Ir.

vert

*Forging, &c.
debentures, a
capital felony.*

vert them into stock transferrable at the bank of Ireland, enacts (s. 11.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c. or wilfully act or assist in the forging, &c. of any such debenture, or shall alter any number, figure, or word therein, or utter or publish as true any such false, forged, counterfeited, or altered debenture, with intention to defraud the governor and company of the bank of Ireland, or any body corporate, or any person whatsoever, every person so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or wilfully acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, shall be deemed guilty of felony without benefit of clergy. And by

s. 12.

*Forging, &c.
letter of attorney,
&c. to transfer, &c.
stock, at bank
of Ireland;*

s. 12. if any person shall forge or counterfeit, or procure to be forged, &c. or knowingly and wilfully act or assist in the forging, &c. of any letter of attorney, or other authority or instrument to transfer, assign, sell, or convey any part or share of or in any principal sum or stock already created, or to be hereafter created and made transferrable at the bank of Ireland, or to receive any interest or dividend payable at the bank of Ireland, or any part thereof; or shall forge or counterfeit, or procure to be forged, &c. or knowingly and wilfully act or assist in the forging, &c. of the name of any proprietor of any such part or share of or in such principal sum or stock, or interest or dividend as aforesaid, in or to any such pretended letter of attorney, &c.; or shall knowingly and fraudulently demand, or endeavour to have any such part or share of or in such principal sums, &c. or any part thereof transferred, assigned, sold or conveyed, or such annuity, interest, or dividend, or any part thereof, to be received by virtue of such counterfeited letter of attorney, &c.; or shall falsely and deceitfully personate any true and real proprietor of the said shares of or in the said principal sums, &c. or any of them, or any part thereof, and thereby transferring, or endeavouring to transfer any part or share of or in the said principal sums or stock, or receiving or endeavouring to receive the money of such lawful proprietor, as if such offender

*Or name of proprietor, &c.
thereof;*

*Or personating
proprietor;*

offender were the true and lawful owner thereof, every *A capital felony.*
 such offender shall be guilty of felony without benefit
 of clergy. And by s. 13. if any person shall forge, *s. 13.*
 counterfeit, or alter any dividend warrant, or warrant
 for payment of any annuity, interest, or money payable *Forging, &c.
dividend war-
rant, &c. a
capital felony.*
 in pursuance of this act at the bank of Ireland, or any
 indorsement thereon, or shall offer, or dispose of, or
 put away any such forged, &c. dividend warrant, &c.
 or indorsement thereon, or demand the money therein
 contained, or pretended to be due thereon, or any part
 thereof, of the said governor and company, or any of
 their officers or servants, knowing such dividend warrant,
 &c. to be forged, &c. with intent to defraud the said
 governor and company, or any other body, or any per-
 son whatsoever, such offender shall be guilty of felony
 without benefit of clergy. By s. 14. if any person shall *s. 14.*
 wilfully make, or assist in making any transfer of any
 interest, part, or share of or in any principal sum, or *Transferring
stock in the name
of any person,
not being the
owner, &c. a
capital felony.*
 stock, or annuity, by this act made transferrable at the
 bank of Ireland, in any of the books of the said gover-
 nor and company, in which transfers of principal sums,
 &c. are, or in pursuance of this act shall be made, in
 the name of any person not being the owner or proprie-
 tor of such principal sum, &c. with intent to defraud
 the said governor and company, or any other body, or
 any person whatsoever, he shall be guilty of felony
 without benefit of clergy. And by s. 15. if any person *s. 15.*
 shall falsely make, forge, or counterfeit, or cause or
 procure to be falsely made, &c. or shall wilfully act or *Forging, &c.
transfer a capital
felony.*
 assist in the falsely making, &c. of any transfer of any
 interest, part or share of or in any principal sum or
 stock, or annuity, by this act made transferrable at the
 bank of Ireland, or shall utter or publish as true, any
 such false, &c. transfer as aforesaid, knowing the same
 to be false, &c. with intent to defraud the said governor
 and company, or any other body, or any person what-
 soever, he shall be guilty of felony without benefit of
 clergy. And by s. 16. if any person shall wilfully make, *s. 16.*
 or assist in making any false entry, or shall wilfully alter
 or assist in altering any word or figure in any entry in *Falsifying the
accounts of the
bank, a capital
felony.*
 the

the books of account kept or to be kept by the said governor and company, wherein the several accounts of the owners or proprietors of principal sums, or stock or annuities by this act made transferrable at the bank, are or shall be entered and kept, or shall in any manner wilfully falsify the account of any such owner, &c. in said books, with intent to defraud the said governor and company, or any other body corporate, or any person whatsoever, he shall be guilty of felony without benefit of clergy. And by s. 17. if any clerk, officer or

Clerk, &c. making a false dividend warrant, how punished.

servant of, or other person employed or entrusted by the said governor and company, shall knowingly or wilfully make out or deliver, or cause or procure to be made out, &c. or wilfully act or assist in the making out, &c. of any dividend warrant, or warrant for payment of any annuity or interest, or money payable in pursuance of this act, at the bank of Ireland, for a greater or less amount than the person, on whose behalf or pretended behalf, such dividend warrant, &c. shall be made out, is entitled to, with intent to defraud the said governor and company, or any body corporate, or person whatsoever, he shall be transported for 7 years.

Forging, &c. exchequer bills, or indorsement thereon, a capital felony.

48 Geo. 3. c. 1.
G. B.

The 48 Geo. 3. c. 1. G. B. enacts, (s. 9.) that if any person shall forge or counterfeit any exchequer bill, or any indorsement or writing thereupon or therein, or tender in payment any such forged bill, or any exchequer bill with such counterfeit indorsement or writing thereupon, or shall demand to have such counterfeit bill, or any exchequer bill with such counterfeit indorsement thereupon or therein, exchanged for ready money, or for another exchequer bill, by any person or body corporate who shall be obliged or required to exchange the same, or by any other person, knowing the bill so tendered in payment, or demanded to be exchanged, or the indorsement or writing thereupon or therein, to be forged, &c. and with intent to defraud the king, or the persons to be appointed to pay off the same, or any of them, or to pay any interest thereupon, or the person or body corporate who shall contract or circulate or exchange

exchange the same, or any other person or body corporate, such offender shall be guilty of felony without benefit of clergy. And the other statutes directing the issue of exchequer bills, restrain in like manner the crime of forgery in respect thereto.

And with respect to the forgery of receipts for loans; *Forging, &c. receipts for loans, a capital felony.* which is restrained by various acts. The 48 Geo. 3. c. 76. U. K. (which is an act for raising £10,500,000. by way of annuities) *48 Geo. 3.c.76. U. K.* *instar omnium*, enacts (s. 24.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c. or shall willingly act or assist in the forging, &c. any receipt for the whole or any part of the contributions towards the said sum of £10,500,000. either with or without the name of any person being inserted therein as the contributor thereto, or payer thereof, or of any part thereof, or shall alter any number, figure, or word therein, or utter or publish as true any such false, &c. receipt, with intent to defraud the governor and company of the bank of England, or any body corporate, or any person whatsoever, every such offender shall be guilty of felony without benefit of clergy.

And the 48 Geo. 3. c. 142. G. B. (which is an act for enabling the commissioners for the reduction of the national debt to grant life annuities) *Forging, &c. register of birth, &c. of nominee or certificate, affidavit, &c. or transfer of life annuities granted under this act.* enacts (s. 27.) that if any person shall forge, counterfeit, or alter, or cause or procure to be forged, &c. or knowingly or wilfully act or assist in the forging, &c. any register of the birth or baptism of any person to be appointed a nominee *48 Geo. 3.c.142. s. 27. G. B.* under the provisions of this act, or any copy or certificate of any such register, or the name of any witness to such certificate, or any affidavit or affirmation required to be taken for any of the purposes of this act, or the certificate of any judge, baron of the exchequer, justice of peace or magistrate, of any such affidavit, &c. having been taken before him, or any certificate of any governor or person acting as such, or minister or consul, or chief magistrate of any province, town, or place, or other person authorized by this act to grant any certificate of the life or death of any nominee, or any certificate

cate of the officer to be appointed by the commissioners for the reduction of the national debt, or of any cashier or clerk of the bank of England; or shall forge or counterfeit, or cause or procure to be forged, &c. or knowingly or wilfully act or assist in the forging, &c. the name of any person in or to any transfer of bank annuities for the purchase of any life annuity, or in or to any transfer or acceptance of any life annuity, in the books of the governor and company of the bank of England, or any receipt or discharge for any life annuity, or for any payment due or to become due thereon, or to any letter of attorney, or other authority or instrument to transfer or accept any bank annuities or life annuities under this act, or to receive any life annuities, or any payment due thereon; or shall wilfully, falsely, and deceitfully personate any true and real nominee: or shall wilfully deliver or produce to any person acting under this act, or shall utter any such forged register, certificate, affidavit, or affirmation, knowing the same to be forged, &c. with intent to defraud the king, or any other person, every such offender shall be guilty of felony without benefit of clergy.

Or personating nominee;

Or uttering such forged registers, &c. a capital felony.

Forging, &c. contracts, &c. relative to the redemption of land tax, a capital felony.

42 Geo. 3. c. 116. s. 194. G. B.

The 42 Geo. 3. c. 116. G. B. (which consolidates the several acts passed for the redemption and sale of the land tax) enacts (s. 194.) that if any person shall forge, counterfeit, or alter, or cause or procure to be forged, &c. or knowingly or wilfully act or assist in the forging, &c. any contract for the redemption or sale of any land tax, or any assignment of any such land tax, or of any such contract, or of any portion of land tax therein comprised, or any certificate of the commissioners of land tax or of supply, or of any chief magistrate authorized by this act to make out such certificate, or of the surveyor general of the land revenue of the crown, or of the duchy of Cornwall, or any certificate or receipt of the cashier of the governor and company of the bank of England, or any certificate or attested copy of any certificate directed by this act to be made out by the proper officer; or shall wilfully deliver or produce to any person acting under the authority of this

this act, or shall utter any such forged, counterfeited, or altered contract, assignment, certificate, or receipt, knowing the same to be forged, &c. with intent to defraud the king, or any body corporate, or company, or other person; every such offender shall be guilty of felony without benefit of clergy.

The 48 Geo. 3. c. 139. U. K. (which is the last act for granting to his majesty a sum of money to be raised by lotteries) enacts (s. 11.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c; or willingly act or assist in the forging, &c. any ticket, certificate, or order, made forth by virtue of this act; or alter any number, figure, or word therein; or knowingly utter, vend, barter, or dispose of any such false, altered, forged, or counterfeited ticket, &c; or shall bring any such forged or counterfeited ticket, &c. the number whereof, or any figure or word therein, shall have been altered, (knowing the same to have been forged or altered) to the managers and directors, or any of them, or to the cashier or accountant general of the bank of England, or to any other person whatsoever, with a fraudulent intention; or shall willingly aid, abet, assist, hire, or command any person to commit any such offence, every such offender shall be guilty of felony without benefit of clergy: And the said managers and directors, or any 2 of them, shall cause any person bringing or uttering such forged ticket, &c. or aiding, &c. any person therein, to be apprehended, and commit him to Newgate, or to the common gaol of the county or place where such person shall be so apprehended, to be proceeded against for said felony. But by s. 12. if any person who shall commit any such offence, or be aiding, &c. therein, shall afterwards (being out of prison) discover any person who shall have committed, or be aiding, abetting, or concerned in any such offence, so as such person be convicted, such discoverer shall be entitled to his majesty's pardon for such offences; and moreover to a reward of £50. British, for every such offender so convicted, to be paid out of the monies arising by virtue of this act, or any other the aids or

*Forging, &c.
lottery ticket,
&c. or uttering,
&c. such, a ca-
pital felony.*

*48 Geo. 3. c. 139.
s. 11. U. K.*

*Managers, &c.
may apprehend,
&c. such offen-
ders.*

s. 12.

*Offender disco-
vering accom-
plice pardoned
and rewarded.*

s. 13.

*Attainder no
corruption of
blood.*

s. 39.

*Forging, &c.
any share of any
ticket, or utter-
ingsuch, a single
felony.*

s. 33.

*Penalty for
forging, &c.
lottery license.*

supplies granted in this session of parliament for Great Britain or Ireland respectively, as the case may be, immediately upon such conviction. Provided (s. 13.) that no attainder for any of the offences aforesaid shall work any corruption of blood, loss of dower, or disherison of heirs. And by s. 39. if any person shall forge or counterfeit, or cause or procure to be forged, &c. or shall willingly act or assist in the forging, &c. any share or chance of any ticket in any lottery to be drawn in pursuance of this act; or alter any number, figure, word, or stamp therein or thereon; or shall knowingly utter, vend, barter, or dispose of any such forged, counterfeited, or altered share or chance, or agreement for any share or chance of any ticket, with intent to defraud any person, every such offender shall be guilty of felony, and suffer as a felon. And by s. 33. if any person shall forge or counterfeit, or cause to be forged, &c. or assist in forging, &c. any license (hereby required to be taken out by persons dealing in lottery tickets), or shall fraudulently alter, or cause to be altered, or assist in altering any such license, or shall make use of any such forged, counterfeited, or altered license, such person shall forfeit £500. one moiety to the king, and the other to him that shall prosecute or sue for the same, to be recovered by action of debt, &c. in any court of record at Westminster, in relation to licenses granted in Great Britain, and at Dublin, as to licenses granted in Ireland; and shall also be subject to imprisonment for such term, not exceeding 6 months, as the court in which such offender shall be convicted shall appoint.

*Forging, &c.
stamps for vel-
lum, &c. or im-
pression thereof,
or uttering such,
a capital felony.*44 Geo. 3. c. 98.
s. 9. G. B.

The 44 Geo. 3. c. 98. G. B. (which consolidates the duties payable upon stamped vellum, parchment, and paper) enacts, (s. 9.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c. any mark, stamp, or die, which shall be provided, made, or used in pursuance of this act, or shall counterfeit or resemble, or cause or procure to be counterfeited, &c. the impression of any such mark, &c. upon any vellum, parchment, paper, or other material, or upon any other matter or thing, or the impression of the stamp or die upon

upon any vellum, parchment, or paper allowed to be issued, used or applied under this act, thereby to defraud the king of any of the duties by this act imposed; or if any person shall utter, vend, or sell any vellum, &c. or other thing with such forged mark, stamp, or impression thereupon, knowing such mark, &c. to be forged, &c. every such offender shall be guilty of felony without benefit of clergy, And the 48 Geo. 3. c. 149. G. B. (which is an act for repealing the stamp duties on deeds, law proceedings, and other written or printed instruments, and the duties on legacies and successions to personal estate upon intestacies, and for granting new duties in lieu thereof) enacts (s. 7.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c. any stamp or die which shall be provided, made, or used, in pursuance of this act, or any stamp or die which shall have been provided, &c. in pursuance of any former act, relating to any stamp duties; or shall forge, counterfeit, or resemble, or cause or procure to be forged, &c. the impression of any such stamp or die, upon any vellum, parchment, or paper, with intent to defraud the king of any of the duties hereby granted; or if any person shall utter or sell, or expose to sale, any vellum, &c. having thereupon the impression of any such forged stamp or die, or any such forged, &c. impression as aforesaid, knowing the same to be forged, &c.; or if any person shall privately and secretly use any stamp or die, by this or any former act directed or allowed to be used, for denoting any of the duties granted by this or any former act, with intent to defraud the king of any of said duties, every such offender shall be guilty of felony without benefit of clergy. The 12 Geo. 3. c. 48. Eng. had previously enacted, that if any person shall write or ingross, or cause to be written, &c. either the whole or any part of any writ, mandate, bond, affidavit, or other writing, matter, or thing, in respect whereof any duty is or shall be payable by any act made or to be made in that behalf, on the whole or any part of any piece of vellum, parchment, or paper, whereon there shall have been before written any other writ,

48 Geo. 3. c. 149.
s. 7. G. B.

*Forging stamp,
&c. for deeds,
&c. or the im-
pression of
such stamp,
&c. or uttering
such;*

*Or fraudulently
using legal
stamp, a capital
felony.*

12 Geo. 3. c. 48.
s. 1. Eng.

*Fraudulently
using stamped
vellum, &c.*

Or erasing any stamped writing with intent to use such stamp again;

A felony punishable with transportation.

A capital felony to escape, &c.

s. 2.

Discoverer of offender pardoned.

46 Geo. 3. c. 64. s. 9. l.

writ, &c. in respect whereof any duty was or shall be payable as aforesaid, before such vellum, &c. shall have been again marked or stamped according to said acts; or shall fraudulently erase or scrape out, or cause to be erased, &c. the name of any person, or any sum, date, or other thing, written in such writ, &c. or fraudulently cut, tear, or get off, any mark or stamp, in respect whereof, or whereby, any duties are or shall be payable, or denoted to be paid or payable as aforesaid, from any piece of vellum, parchment, paper, playing cards, or outside paper of any parcel or pack of playing cards, or any part thereof, with intent to use such stamp or mark for any other writing, matter or thing, in respect whereof any duty is or shall be payable, &c. every such offender, and every person knowingly and wilfully aiding, abetting, or assisting any person to commit any such offence as aforesaid, shall be guilty of felony, and be transported for a term not exceeding 7 years: And if such person so convicted or transported shall voluntarily escape or break prison, or return from transportation before the expiration of the time for which he shall be so transported, he shall suffer death as a felon, without benefit of clergy, and shall be tried for such felony in the county where he shall be apprehended. But by s. 2. if any person shall commit any of the offences aforesaid, and afterwards, being out of prison, discover one person or more, who shall, since that time, have committed any of the offences aforesaid, so as such person shall be convicted, he shall be entitled to his majesty's pardon for all such offences by him committed at any time before such discovery made. It seems however that this statute is in part at least superseded by the 48 Geo. 3. c. 149. *supra*, which makes it a capital felony, privately and secretly to use any legal stamp with intent to defraud the king; but this clause of the 48 Geo. 3. does not extend to accessaries, as the 12 Geo. 3. does: And it is to be observed that the 44 Geo. 3. c. 98. *supra*, confirms the provisions of former acts, except so far as they are thereby altered. The 46 Geo. 3. c. 64. s. 9. l. (which is confirmed by the 47 Geo. 3. st. 1. c. 50. s. 44. l.) enacts, that if any person shall counterfeit or forge, or cause or procure

procure to be counterfeited, &c. any type, die, mark, or stamp, to resemble any type, &c. at any time heretofore kept or used, or hereafter to be kept or used at the head office of the commissioners of stamp duties in Dublin, for denoting the charging or marking on vellum, parchment, or paper, or other matter directed to be stamped, any of the duties charged thereon by this act, or by any other act at any time in force in Ireland, although such act may not be in force at the time of such forging, &c.; or if any person (except such person as shall be lawfully entitled to have and use the same for the purpose of stamping vellum, parchment, or paper, by authority of the said commissioners) shall have in his possession any type, die, mark, or stamp, to resemble any type, &c. heretofore kept or used, or hereafter to be kept or used, at the said head office, for denoting the charging or marking on vellum, &c. directed to be stamped, any of the duties so charged thereon; or shall mark or impress, or cause or procure to be marked, &c. on any vellum, &c. or other matter directed to be stamped, any of the duties to be charged thereon by any act of parliament which shall have been in force in Ireland at the time when such mark or device shall have been used or kept at the said head office, though such act may not be in force at the time of such offence committed; or if any person shall utter, vend, or sell, or cause to be uttered, &c. or shall have in his possession with intent to utter, &c. any vellum, &c. or other matter, with any counterfeit device, mark or impression thereupon, to resemble any device, &c. used, kept, or made at the head office as aforesaid, knowing such device, &c. to be counterfeited; every such offender shall be adjudged a felon, and shall, for the 1st offence, be transported for 7 years, and for any subsequent offence shall suffer death as in cases of felony without benefit of clergy.

Forging stamp, &c. used by commissioners of stamps in Dublin;

Or having such die, &c. in any person's possession;

Or making use of such;

Or uttering any vellum, &c. with such counterfeit impression thereon;

Punished with transportation for 1st offence, 2nd offence a capital felony.

The 42 Geo. 3. c. 63. U. K. (which is an act to authorize the sending and receiving of letters and packets, votes, proceedings in parliament, and printed newspapers, by the post, free from the duty of postage, by the

Forging, &c. superscription, or date on letters, &c. to avoid postage, a felony punishable with transportation.

42 Geo. 3. c. 63. s. 14. U. K. the members of the two houses of parliament of the united kingdom, and by certain public officers therein named, &c.) enacts, (s. 14.) that if any person shall forge or counterfeit the hand writing of any person, in the superscription of any letter or packet to be sent by the post, in order to avoid the payment of the duty of postage; or shall forge, counterfeit, or alter, or procure to be forged, &c. the date upon the superscription of any such letter or packet, or shall write and send by the post, or cause to be written, &c. any letter or packet, the superscription or cover whereof shall be forged or counterfeited, or the date upon such superscription or cover altered, in order to avoid the payment of the duty of postage, knowing the same to be forged, &c. every such offender shall be guilty of felony, and be transported for 7 years.

Personating any seaman, &c. in order to receive wages, &c.

45 Geo. 3. c. 72. s. 121. U. K.

Or forging, &c. any letter of attorney, &c. for that purpose;

Or obtaining probate, &c. falsely;

The 45 Geo. 3. c. 72. U. K. enacts (s. 121.) that whosoever, willingly and knowingly, shall personate or falsely assume the name or character of, or procure any other to personate, &c. any officer, seaman, or other person, entitled or supposed to be entitled to any wages, pay, or other allowances of money, or prize money, for service done on board of any ship or vessel of the king, or the executor or administrator, wife, relation, or creditor, of any such officer, &c. in order to receive any wages, pay, or other allowances of money, or prize money, due or supposed to be due or payable for or on account of the services of any such officer, &c.; or shall forge or counterfeit, or procure to be forged, &c. any letter of attorney, bill, ticket, certificate, assignment, last will, or other power or authority, in order to receive any such wages, &c. which shall be due or supposed to be due to such officer, &c.; or shall willingly and knowingly take a false oath, or procure any other person to take a false oath to obtain the probate of any will, or to obtain letters of administration, in order to receive the payment of any wages, &c. which shall be due or supposed to be due to any such officer, &c. who shall have really served, or who shall be supposed to have served on board of any ship or vessel of the king; or shall utter

ter or publish as true any false, forged, or counterfeited letter of attorney, bill, ticket, certificate, or assignment, last will, or other power or authority, in order to receive any wages, &c. due or supposed to be due to any officer, &c. who shall have really served, or be supposed to have served on board of any ship or vessel of the king, with intent to defraud any corporation whatsoever, knowing the same to be false, &c.; shall be guilty of felony without benefit of clergy. This statute incorporates the provisions of the 31 Geo. 2. c. 10. s. 24. Eng. and 9 Geo. 3. c. 30. s. 6. Eng. with this deviation only, that by the 9 Geo. 3. c. 30. s. 6. Eng. (which relates only to the offence of altering or publishing as true such false, &c. letters of attorney, &c.) the intent which constitutes the crime, is "to defraud any person," and not "to defraud any corporation" as in the 45 Geo. 3. c. 72. *supra*: and the 31 Geo. 2. c. 10. contains no express words with respect to the intention to defraud either any person or corporation. The 32 Geo. 3. c. 33. Eng. also enacts (s. 23.) that if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or willingly act or assist in the false making, &c. any ticket for the wages or pay due to any petty officer or seaman, non-commissioned officer of marines, or marine, for his services on board any ship or vessel of the king, or any duplicate of any such ticket, or any certificate of discharge from any naval hospital of the king, or any remittance bill, or duplicate of remittance bill, with intention to receive any wages, pay, or other allowances of money or prize money, due or supposed to be due for or on account of the service of any such petty officer, &c.; or shall utter or publish as true any ticket for the wages or pay due to any such petty officer, &c. or any duplicate of any such ticket, or any certificate of discharge from any naval hospital of the king, or any remittance bill, or duplicate of remittance bill, with intention to receive any wages, pay, or other allowances of money, due or supposed to be due for or on account of the service of any such petty officer, &c. knowing the same to be false, forged, or counterfeited;

Or uttering such forged letter of attorney, &c.

A capital felony.

31 Geo. 2. c. 10. s. 24. Eng.

9 Geo. 3. c. 30. s. 6. Eng.

32 Geo. 3. c. 33. s. 23. Eng.

Forging, &c. ticket for wages, &c. of any marine, &c.;

Or certificate of discharge, or remittance bill, &c.

Or uttering such as true;

A capital felony. counterfeited; every such offender shall be guilty of felony without benefit of clergy. And the 32 Geo. 3. c. 34. Eng. (which is an act for explaining and amending the 26 Geo. 3. c. 63. Eng. and for extending the benefits thereof to the petty officers and seamen, non-commissioned officers of marines, and marines, serving, or who may have served on board any of his majesty's ships) enacts (s. 29.) that any person who shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or willingly act and assist in the false making, &c. any petition for a certificate herein-before described or mentioned, to enable any person to obtain letters of administration to any petty officer or seaman, non-commissioned officer or private of marines, who shall have served on board any ship or vessel of the king; or shall utter or publish as true any such petition, &c; or shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or willingly act and assist in the false making, &c. any certificate for enabling him to obtain probate, or letters of administration with the will annexed, or any check, remittance bill, or duplicate of remittance bill, or any certificate to the deputy paymaster, in respect of wages, prize money, and other allowances of money, not exceeding £10. herein-before severally described or mentioned, in order to receive any wages, pay, or other allowances of money, or prize money, due or supposed to be due for or on account of the service of any such petty officer, &c.; or shall utter or publish as true any such check, &c. in order to receive any wages, &c. due or supposed to be due for or on account of the service of any such petty officer, &c. knowing the same to be false, forged, or counterfeited, shall be guilty of felony without benefit of clergy. And by s. 30. if any petty officer or seaman, non-commissioned officer of marines, or marine, shall receive his pay, or shall attempt to receive the same, or any part thereof, upon any certificate, purporting to be a certificate of servitude, or a certificate of discharge, knowing the same to be forged or counterfeited; or if any such petty officer by himself,

Forging, &c. petition for a certificate to obtain administration, &c. to seaman or marine, &c.;

Or forging, &c. such certificate, or any check, &c. in respect of wages, &c.

A capital felony.
s. 30.

Petty officer, &c. receiving pay, &c. upon a false certificate;

or

or by employing others, shall assist in the forging or counterfeiting of any such certificate; every such petty officer, or seaman, non-commissioned officer of marines, or marine, being thereof convicted, shall be punished as in cases of perjury. The 32 Geo. 3. c. 67. Eng. is an act for extending the 31 Geo. 2. c. 10. Eng. 3 Geo. 3. c. 16. Eng. 26 Geo. 3. c. 63. Eng. 32 Geo. 3. c. 33. Eng. and 32 Geo. 3. c. 34. Eng. to petty officers, and seamen, non-commissioned officers of marines, and marines, serving, or who may have served on board any of his majesty's ships, and residing in Ireland. And this act (32 Geo. 3. c. 67.) contains several provisions for establishing a regular method for the punctual, frequent, and certain payment of the wages of petty officers and seamen, non-commissioned officers of marines, and marines, serving, or who may have served on board any of his majesty's ships of war, and for enabling them more readily and easily to remit the same to Ireland for the support of their wives and families, and for establishing a more regular and convenient method for the out-pensioners of Greenwich hospital to receive their pensions. And by s. 12. provides, that if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, &c. or willingly act or assist in the false making, &c. any certificate by this act directed to be addressed to the revenue officers in Ireland, for the payment of any wages, pay, or other allowance of money, or any pension or prize money, with intention to defraud any person whatsoever; or shall utter or publish as true any such certificate, with intention to defraud any person, knowing the same to be false, forged, or counterfeited; he shall be guilty of felony without benefit of clergy. And the 33 Geo. 3. c. 23. Ir. recites the 32 Geo. 3. c. 67. Eng. *supra*, and 32 Geo. 3. c. 34. Eng. *supra*, and adopts several of their provisions, and by s. 16. enacts, that if any person shall personate, or falsely assume the name or character of, or procure any other person to personate, &c. any person to whom any such certificate (as hereby required,) shall have been granted, in order to receive the money mentioned in such certificate; or shall forge or counterfeit, or cause

Or assisting in forging such certificate;

How punished.

32 Geo. 3. c. 67. s. 12. Eng.

Forging, &c. certificate directed to revenue officers in Ireland for payment of wages, pension, &c. a capital felony.

33 Geo. 3. c. 23. s. 16. Ir.

Personating seaman, &c. or forging certificate, &c. in order to receive wages, &c.

or procure to be forged, &c. any bill, certificate, or other document, in order to receive any such money; or shall willingly and knowingly take any false oath in order to receive payment of any such money, for which any such bill, certificate, or other document, as herein mentioned, shall be drawn; or if any person shall knowingly and willingly personate, or falsely assume the name or character of any inferior officer or seaman, non-commissioned officer of marines, or marine, or other person entitled to any wages, pay, or other allowance of money for service done on board of any ship or vessel of the king, or the name or character of the executors or administrators, wife, relation, or creditor of any such inferior officer, &c. or other person, in order to receive any wages, pay, or allowance of money due, or supposed to be due, and payable for or on account of the services of any such inferior officer, &c.; or shall forge or counterfeit, or procure to be forged, &c. any letter of attorney, bill, ticket, certificate, assignment, last will, or other power or authority, in order to receive any wages, &c. due or supposed to be due to such petty officer, &c.; or shall willingly or knowingly take a false oath, or procure any other person to take a false oath, to obtain the probate of any will, or to obtain letters of administration, in order to receive the payment of any wages, &c. due or supposed to be due to any such petty officer, &c. who has really served, or was supposed to have served on board of any ship or vessel of the king; every such offender shall be guilty of felony without benefit of clergy.

Or forging letter of attorney, &c. to receive wages, &c.

Or falsely obtaining probate, &c.

A capital felony.

Personating out-pensioner of Greenwich hospital, a capital felony.

3 Geo. 3. c. 16. s. 5. Eng.

By the 3 Geo. 3. c. 16. Eng. (which empowers the commissioners or governors of Greenwich hospital to provide for such worn-out or decrepit seamen as shall not be provided for within the hospital; and provides for such out-pensioners receiving their pensions in an easy and convenient manner) it is enacted (s. 5.) that whosoever, willingly and knowingly, shall personate or falsely assume the name or character of, or procure any other to personate, &c. any person entitled, or supposed to be entitled as an out-pensioner, to any out-pension

pension or allowance of money from the commissioners or governors of the said hospital, in order to receive the money due, or supposed to be due, on such out-pension, shall be guilty of felony without benefit of clergy.

And the 46 Geo. 3. c. 69. U. K. (by which provision is made for the payment of all pensions, allowances, and

46 Geo. 3. c. 69.
s. 8. U. K.

relief granted or to be granted, to disabled, invalid, or discharged soldiers,) enacts (s. 8.) that if any person shall willingly and knowingly personate, or falsely as-

Personating soldiers to receive pension, &c. a capital felony.

sume the name or character of any other person entitled, or supposed to be entitled to any such pension, &c. in order to receive the same or any part thereof, such offender shall be guilty of felony without benefit of clergy. And by s. 9. if any person shall knowingly and wil-

s. 9.

lingly forge, or counterfeit, or cause or procure to be forged, &c. or knowingly and wilfully act or assist in forging, &c. the name or hand writing of any person entitled to any such pension, &c. or of any person required, by any rules or regulations made by virtue of this act, to sign any certificate, voucher, or receipt, in relation to the payment of any such pension, &c. for and in order to the receiving or obtaining any money on any such pension, &c.; or shall utter any such, knowing the same to be forged, &c. with an intention to defraud any person, every such offender shall be guilty of felony, and may be transported for life, or for such term of years as the court shall adjudge.

Forging name, &c. to any receipt, &c. for such pension, &c. how punished.

The 39 & 40 Geo. 3. c. 89. Eng. (which by s. 25. empowers the commissioners of the navy, ordnance, or victualling, to dispose of any of the stores marked as in s. 1. *ante* p. 516. and authorizes the buyers to keep them

Signing or giving false certificate, &c. of the sale of naval, &c. stores;

without incurring any penalty on producing such certificate of their having bought them as hereby directed) enacts (s. 26.) that if any person shall make, sign, or give any false certificate, bill of parcels, or other instrument, purporting the identity or the sale or disposal of any goods or stores as goods, &c. so purchased of the said commissioners; or shall utter or publish any such false certificate, &c. knowing the same to be false, such

39&40 Geo. 3.
c. 89. s. 25. Eng.

Or uttering the same;

offender

offender, upon conviction thereof in due form of law, shall forfeit £200. and be further corporally punished as by this act is directed with respect to persons having in their possession, or concealing his majesty's warlike, naval, or ordnance stores, contrary to the 9 & 10 W. 3. c. 41. Eng.; one moiety of which penalty shall be to the king, and the other (with full costs of suit) to the informer, to be recovered in such manner as the £200. inflicted by the 9 & 10 W. 3. is recoverable. And the

How punished.

1 Geo. 1. st. 2. c. 25. s. 6. Eng.

Forging hand of treasurer, &c. of navy, to any bill, ticket, &c. by which naval treasure is disposed of, how punished.

clause of the 1 Geo. 1. st. 2. c. 25. Eng. may be here also stated, which enacts, that every person who shall counterfeit the hands of the treasurer, comptroller, surveyor, clerk of the acts, or of the commissioners of the navy, or any of them, or the hand of any of the signing or vouching officers of his majesty's navy, ships, or yards, to any bill, ticket, or other papers, by virtue whereof his majesty's naval treasure is or may be paid or disposed of; or shall knowingly produce any such counterfeit ticket, &c.; every such offender shall and may be committed to prison by any of the said officers or commissioners, until he find surety to appear at the next general assizes or quarter sessions of the peace for the county, &c. where such offender shall be so committed to prison, to be there proceeded against according to law.

Forging the name or writing of the receiver general of excise
46 Geo. 3. c. 75. s. 8. E.

The 46 Geo. 3. c. 75. E. (which is an act for the better regulation of the office of receiver general of the duties of excise in England) enacts (s. 8.) that if any person shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged, &c. or knowingly or wilfully act or assist in forging, &c. the name or handwriting of the receiver general of the excise, or of the comptroller of the cash of the excise, or any person duly authorized as herein mentioned, to any draft, instrument, or writing, for or in order to the receiving or obtaining any of the money in the hands or custody of the governor and company of the bank of England, on account of the receiver general of the excise; or shall forge, &c. or cause to be forged, &c. or knowingly and wilfully act and assist in the forging, &c.
any

any draft, instrument, or writing in form of a draft made by such receiver general, or person authorized as aforesaid; or shall utter or publish any such, knowing the same to be forged, &c. with an intention to defraud any person; every such offender shall be guilty of felony without benefit of clergy. And the 46 Geo. 3. c. 150. E. contains a similar clause with respect to the receiver general of the customs, or supervisor of the receiver general's receipts or payments, or other person authorized to draw on the bank of England as herein mentioned. And a similar clause is also contained in the 46 Geo. 3. c. 45. U. K. with respect to the treasurer of the ordnance, or his deputy, or other person authorized to draw on the bank of England as herein mentioned. The 46 Geo. 3. c. 76. E. contains also the like clause with relation to the receiver general of stamp duties, or his clerk, or either of the commissioners of stamps. And the surveyor general of the woods and forests, or his deputy, are in like manner protected against the crime of forgery in respect to their drafts, writings, or instruments for obtaining money out of the bank of England, by the 46 Geo. 3. c. 142. E.

*Or any draft,
&c. of his;*

A capital felony.

*46 Geo. 3. c. 150.
s. 10. E.*

*So as to the
receiver general
of customs.*

*46 Geo 3 c. 45.
s. 9. U. K.*

*So as to the
treasurer of the
ordnance or his
deputy.*

*46 Geo. 3. c. 76.
s. 9. E.*

*So as to the re-
ceiver general of
stamp duties,
&c.*

*46 Geo. 3. c. 142.
s. 14. E.*

*So as to the sur-
veyor general of
woods, &c.*

The 43 Geo. 3. c. 68. G. B. (which is the consolidating customs act) enacts (s. 35.) that if any person shall forge or counterfeit any mark or seal to resemble any mark or seal which shall be provided or used in pursuance of this act, or shall forge, &c. the impression of any such mark or seal upon any goods by this act required to be marked or sealed, or shall sell or expose to sale, or have in his custody or possession, any such foreign silk lace (as herein mentioned) with a counterfeit mark or seal thereon, knowing the same to be counterfeited, such offender, his aiders, abettors, and assistants, shall forfeit £100.; one moiety to the king, and the other to such officer of the customs as shall sue and prosecute the same; and such offender shall also be adjudged to stand in the pillory, in some public place, for 2 hours. But it is made a capital felony by several previous statutes to commit the crime of forgery in respect to the stamp or seal, &c. of the commissioners of excise

*Forging mark or
seal required by
this customs act,
how punished.*

*43 Geo. 3. c. 68.
s. 35. G. B.*

*Statutes making
similar offence a
felony.*

or

41 Geo 3.c.91.
s. 5. G. B.

Forging certificate required to be given by any officer of excise, a felony.

How punished.

48 Geo.3. c.82.
s. 9. I.

Making, &c. frame, &c. for the making of paper with the words, &c. peculiar to the paper used by the commissioners of excise, &c. for permits, &c ;

Or making such paper ; or engraving, &c. such plates ;

or customs in England. The 10 Ann. c. 19. 13 Geo. 3. c. 56. 14 Geo. 3. c. 72. 23 Geo. 3. c. 70. 27 Geo. 3. c. 31 & 32. may be referred to for this purpose. And it is enacted by the 41 Geo. 3. c. 91. s. 5. G. B. that if any person shall counterfeit or forge, or cause or procure to be counterfeited, &c. any certificate authorized or required to be granted by any officer of excise by virtue of any act of parliament in force immediately before the passing of this act, and relating to any of the duties of excise, or if any person shall knowingly or willingly give any false or untrue certificate as aforesaid, or shall knowingly or willingly accept or receive any false, &c. certificate as aforesaid ; or fraudulently alter or erase any true certificate after the same shall be given by the proper officer ; or if any person shall knowingly or willingly publish, or make use of any such certificate so counterfeited, &c. altered or erased, he shall be guilty of felony, and be transported for 7 years, &c. The 48 Geo. 3. c. 82. I. enacts (s. 9.) that if any person (not authorized and appointed by the commissioners of inland excise and taxes, and not for the use of the said commissioners) shall make, or cause or procure to be made, or shall knowingly aid or assist in the making, &c. or, without being so authorized or appointed, shall knowingly have in his custody or possession, without lawful excuse, (the proof whereof shall be on the person accused) any frame, mould, or instrument, for the making of paper, with the words, marks, or devices peculiar to and appearing in the substance of the paper used by the said commissioners, for such permits, certificates, tickets, and receipts (for the conveyance and protection of certain exciseable goods in Ireland) ; or if any person (except as before excepted) shall make, &c. any paper in the substance of which the words, marks, or devices peculiar to and appearing in the substance of the paper used by the said commissioners for such permits, &c. shall be visible ; or if any person (except as before excepted) shall by any art, mystery, or contrivance, cause or procure, or knowingly aid or assist in causing, &c. the words, &c. peculiar to, &c. the paper used by the said commissioners for such permits, &c. to appear visible

ble in the substance of any paper; or if any person (not authorized as aforesaid,) shall engrave, cast, cut or make, or cause to be engraven, &c. any plate, type, or other thing, in imitation of or to resemble any plate or type made or used by the direction of the said commissioners for the purpose of making or printing of the paper to be used for such permits, &c.; every such offender shall be adjudged a felon, and be transported for life, or for 7 years, as the court who shall try such person shall direct.

A felony how punished.

Next with respect to another description of official papers: The 2 & 3 Ann. c. 4. Eng. (which provides for the public registering of deeds, conveyances, and wills, within the West Riding of the county of York, and directs a memorial of all such to be registered in a certain manner at Wakefield, and that the registrar shall indorse a certificate of such registry on every such deed, &c.) enacts s. 19. that if any person shall forge or counterfeit any such memorial or certificate as herein-before mentioned and directed, he shall be liable to such pains and penalties as by the 5 Eliz. c. 14. Eng. are imposed upon persons for forging or publishing of false deeds, &c. whereby the freehold or inheritance of any person in lands, &c. may be molested, &c. And the 5 Ann. c. 18. Eng. (which provides for the inrolling deeds of bargain and sale of lands, &c. within the West Riding of York, and also for the entering of judgments, statutes, or recognizances affecting lands within said West Riding, at the said register office,) also enacts (s. 8.) that if any person shall forge or counterfeit any entry of the acknowledgment of any bargainor in any such bargain and sale, or any such memorial, certificate, or indorsement as herein mentioned and directed, he shall incur such pains and penalties as by the 5 Eliz. c. 14. Eng. are imposed upon persons for forging or publishing of false deeds, &c. *ut supra*. And the 8 Geo. 2. c. 6. s. 31. Eng. extends said provisions of both statutes to the North Riding of the same county. And the 7 Ann. c. 20. Eng. which is an act for the public registering of deeds, conveyances, and wills, and other incumbrances which shall be made of, or that may affect any lands, &c. within

Persons forging memorial or certificate of registry of deeds in register counties of England, how punished.

2 & 3 Ann. c. 4. s. 19. Eng.

5 Ann. c. 18. s. 8. Eng.

8 Geo. 2. c. 6. s. 31. Eng.

7 Ann. c. 20. s. 15. Eng.

the

6 Ann. c. 2.
s. 17. Ir.

Similar provisions in Ireland.

8 Ann. c. 10.
s. 4. Ir.

8 Geo. 1. c. 15.
s. 4. Ir.

Forging, &c. name or hand of accountant general, &c. to any certificate, &c. in order to receive suitors money, a capital felony.

12 Geo. 1. c. 32.
s. 9. Eng.

* "aid" in
23 & 24 Geo. 3.
c. 22. Ir.

† "hand writing," in 23 & 24
Geo. 3. c. 22. Ir.

‡ "not" in
23 & 24 Geo. 3.
c. 22. Ir.

§ "Ireland" in
23 & 24 Geo. 3.
c. 22. Ir.

the county of Middlesex,) by s. 15. inflicts the like punishment as the 2 & 3 Ann. c. 4. and 5 Ann. c. 18. *supra*, upon such persons as shall forge or counterfeit any entry of the acknowledgment of any such memorial, certificate, or indorsement, as therein mentioned or directed. The 6 Ann. c. 2. Ir. (several provisions of which have been already stated vol. 1. p. 544. to 551.) enacts (s. 17.) that if any person shall forge or counterfeit any such memorial or certificate as herein mentioned, he shall incur such pains and penalties as by the 28 Eliz. c. 3. Ir. are imposed upon offenders therein mentioned. And the 8 Ann. c. 10. Ir. which amends the 6 Ann. c. 2. *supra*, contains the like provision. And the 8 Geo. 1. c. 15. Ir. which amends and explains the 6 Ann. and 8 Ann. also enacts (s. 4.) that if any person shall forge or counterfeit any such certificate as herein mentioned, he shall incur such pains and penalties as by the 28 Eliz. c. 3. Ir. are imposed upon offenders therein mentioned for forging of any false deed or writing sealed, whereby any estate of freehold or inheritance may be molested, &c.

The 12 Geo. 1. c. 32. Eng. (which is an act for better securing the monies and effects of the suitors of the court of chancery, &c.; and the other clauses of which have been already mentioned, *ante* p. 360.) enacts (s. 9.) that if any person shall forge or counterfeit, or procure to be forged, &c. or willingly [*act] or assist in the forging, &c. the name or [†hand] of the said accountant general, [‡the said register, the said clerk of the report office,] or any of the cashiers of the said governor and company of the bank of [§England,] to any certificate, report, entry, indorsement, declaration of trust, note, direction, authority, instrument or writing, for or in order to the receiving or obtaining any the money or effects of any of the suitors of the said court of chancery; || or shall forge, &c. or procure to be forged, &c. or wilfully act or assist in forging, &c. any certificate, &c. made by such accountant general, &c.; or shall utter or publish any such, knowing the same to be forged, &c.

[* "Or court of exchequer," here added in 23 & 24 Geo. 3. c. 22. Ir.]

&c. with intention to defraud any person whatsoever; every such offender shall be guilty of felony without benefit of clergy. The 23 & 24 Geo. 3. c. 22. Ir. contains the like clause, but with such variation as is noted in the margin.

The 32 Geo. 2. c. 14. Eng. (which directs the receiver of pre-fines at the alienation office to receive the post fine at the same time on every writ of covenant sued out for the passing of fines in the court of C. B. and indorse the receipt thereon, with his name and the mark of his office,) enacts (s. 9.) that any person who shall make, forge, or counterfeit, or cause or procure to be made, &c. the mark or hand of such receiver, whereby such receiver, or any other person, may be defrauded, or suffer any loss thereby; shall be guilty of felony without benefit of clergy. To this there is no corresponding statute in Ireland.

Forging name, &c. of the receiver of pre-fines a capital felony.
32 Geo. 2. c. 14. s. 9. Eng.

The clause of the 26 Geo. 2. c. 33. Eng. which relates to the offences of forgery, &c. in respect to marriage registers, and licenses, has been already stated, *ante* p. 749.

Marriage registers and certificates.
26 Geo. 2. c. 33. s. 16. Eng.

The 21 & 22 Geo. 3. c. 24. Ir. (which is one of the acts for removing the penal disabilities, &c. of such catholics as shall take the oath, &c. prescribed by the 13 & 14 Geo. 3. c. 35. Ir. and which requires that the names of such as shall take said oath, &c. shall be enrolled at the Rolls office, and a certificate thereof granted, as already stated, *ante* vol. 1. p. 502-3.) enacts (s. 17.) that if any person shall forge or counterfeit, or procure to be forged, &c. or willingly assist in the forging, &c. any such certificate, he shall be guilty of felony without benefit of clergy.

Forging certificate of catholic qualification oaths being taken, a capital felony.
21 & 22 Geo. 3. c. 24. s. 17. Ir.

The 39 Eliz. c. 17. Eng. which requires certain testimonials of justices of peace as licenses for wandering soldiers and mariners, makes it a capital felony to forge such testimonials, as already stated, *ante* p. 753.

Testimonials of wandering soldiers and mariners.
39 Eliz. c. 17. s. 2. Eng.

The 4 Geo. 2. c. 18. Eng. recites, that certain treaties or conventions have been concluded with the several states and governments of Barbary, by which it is stipulated that all ships belonging to his majesty, or any

Forging, &c. a Mediterranean Pass, a capital felony.
4 Geo. 2. c. 18. s. 1. Eng.

of his subjects, may freely pass the seas, and enter into the ports and harbours of the said states, upon producing passes of a certain form; and enacts, that if any person shall, within Great Britain or Ireland, or any of his majesty's dominions, or without, falsely make, forge, or counterfeit, or cause or procure to be falsely made, &c. or wittingly or knowingly act or assist in the false making, &c. any pass for any ship, commonly called a Mediterranean Pass, or shall counterfeit the seal of office, or the hand of the lord high admiral of Great Britain and Ireland for the time being, or of any commissioner for executing the said office; or shall alter or erase any true and authentic pass issued or made out by the lord high admiral, &c.; or shall utter or publish as true any such false, forged, counterfeited, altered or erased pass, knowing the same to be false, &c.; every such person, being convicted of any of the offences aforesaid in any proper court of Great Britain, Ireland, or any of his majesty's plantations beyond the seas, where such offence shall be committed, shall be guilty of felony without benefit of clergy. Provided (s. 2.) that every such crime which shall be committed in any country or place out of Great Britain, either within the dominions of the king, or without, shall and may be inquired of, &c. in any shire or county of Great Britain, by virtue of the king's commission of *oyer and terminer*, and gaol delivery, or before any court of justiciary in Scotland, as if there committed. And the 27 Geo. 3. c. 27. Ir. also enacts (s. 2.) that if any person shall forge or counterfeit, or cause or procure to be forged, &c. or shall be aiding and assisting in forging, &c. or causing to be forged, &c. any pass, commonly called a Mediterranean pass, for any ship, with intent that such forged, &c. pass, shall be made use of to procure any person any benefit belonging to a Mediterranean pass; or shall utter, publish, or make use of the same, knowing the same to be forged, &c.; or shall counterfeit the seal of office under which such passes are authorized by his majesty to be granted, or the hand writing of any person authorized by his majesty to grant such passes, and

s. 2.

*Offences where
tried.*27 Geo. 3. c. 27.
Ir.*Analogous
statute.*

and to subscribe the same; or shall utter and publish the same, knowing such seal [*or] such hand writing to be ^{* Misprinted "of."} forged and counterfeited; or if any person shall erase, obliterate, alter, or falsify any pass, called a Mediterranean pass, or any part thereof, or shall cause any such pass, or any part thereof, to be in any manner erased, &c. or shall be aiding or assisting in erasing, &c. or causing to be erased, &c. such pass as aforesaid, with intent to procure to himself, or to any person whatsoever, any benefit belonging to Mediterranean passes; or shall utter, publish, or make use of the same, knowing the same to have been erased, &c.; every person convicted of any of said offences according to law, shall be adjudged guilty of felony without benefit of clergy; and all said crimes shall and may be inquired of, &c. in the king's bench, or in any county of this kingdom, by virtue of the king's commission, or commission of *oyer and terminer* and gaol delivery.

The 45 Geo. 3. c. 10. G. B. (which is an act for making further provision for the effectual performance of quarantine, the principal clauses of which have been stated, *ante* p. 738, &c.) enacts (s. 30.) that if any person shall knowingly and wilfully forge or counterfeit, or procure to be forged or counterfeited, any certificate required to be granted by this act, or shall publish as true any such forged, &c. certificate, knowing the same to be forged, &c. he shall be guilty of felony without benefit of clergy. And by the 46 Geo. 3. c. 98. s. 8. G. B. if any person shall knowingly and wilfully forge or counterfeit, interline, erase, or alter, or procure to be forged, &c. any certificate directed to be granted by any order of the king in council, now in force, or hereafter to be made, touching quarantine, and the prevention of infection; or shall publish as true any such forged, &c. certificate, knowing the same to be forged, &c. with intent to obtain the effect of a true certificate to be given thereto, knowing the contents of such certificate to be false, he shall be guilty of felony without benefit of clergy. The 40 Geo. 3. c. 79. Ir. *ante* p. 744. does not contain any similar provision.

Forging quarantine certificate, a capital felony.

45 Geo. 3. c. 10. s. 8. G. B.

46 Geo. 3. c. 98. s. 8. G. B.

Forging quarantine certificate granted under this act, a capital felony.

Forging, &c.
stamp on gold
or silver plate ;

24 Geo.3. c 53.
s.16. Eng.

Or casting stamp
&c. used by
company of gold-
smiths, &c. ;

Or using coun-
terfeit stamp,
&c.

Or fraudulently
using genuine
stamp ;

Or selling, &c.
plate, &c. with
such forged
marks thereon ;

Or having the
possession of
such forged
stamps, &c.

Next as to forgeries considered with relation to trade and manufactures : By the 24 Geo. 3. c. 53. Eng. if any person shall cast, forge, or counterfeit, or cause or procure to be cast, &c. the mark or stamp used or directed to be used in pursuance of this act, for the marking or stamping of gold **or silver* plate by the company of goldsmiths in London or Edinburgh, or the Birmingham or Sheffield Company, or by the wardens, or assayer or assayers at York, Exeter, Bristol, Chester, Norwich, or Newcastle upon Tyne, **or by any maker or worker of gold or silver plate* ; or shall cast, &c. or cause or procure to be cast, &c. any mark, stamp, or impression, in imitation of, or to resemble any mark, &c. made or to be made with any mark or stamp used or to be used as aforesaid, by the said company of goldsmiths, &c. ; or shall mark or stamp, or cause or procure to be marked, &c. any wrought plate of gold or silver, **or any wares of brass or other base metal, silvered or gilt over, and resembling plate of gold or silver*, with any mark or stamp which hath been or shall be forged or counterfeited at any time, either before, on, or after **the 1st day of December, 1784*, in imitation of or to resemble any mark or stamp used or to be used as aforesaid by the said company of goldsmiths, &c. ; or shall transpose or remove, or cause or procure to be transposed, &c. from one piece of wrought plate to another, or to any vessel of such base metal as aforesaid, any mark, stamp, or impression made or to be made by or with any mark or stamp used or to be used as aforesaid by the said company of goldsmiths, &c. ; or shall sell, exchange, or expose to sale, or export out of this kingdom, any wrought plate of gold or silver, or any vessel of such base metal as aforesaid, with any such forged mark, &c. thereon, or any mark, &c. transposed or removed from any other piece of plate, knowing such mark to be forged, &c. or transposed, &c. as aforesaid ; or shall wilfully or knowingly have, or be possessed of any mark or stamp forged, &c. in imitation of and to resemble any mark or stamp used or to be used as aforesaid, by the said company of goldsmiths

* The words marked in Italics will serve to point out the distinctions between this and the following act.

smiths, &c. every such offender shall be guilty of felony *A capital felony.*
*without benefit of clergy. But the 38 Geo. 3. c. 69. *38 Geo. 3. c. 69.*
Eng. (which is an act for allowing gold wares to be ma- *s. 7. Eng.*

nufactured at a standard lower than is now allowed by *Similar offences*
law) enacts (s. 7.) that if any person shall forge, cast, or *how punished by*
counterfeit, or cause or procure to be cast, &c. the mark *this act.*

or stamp used or directed to be used in pursuance of this
act for the making or stamping of gold plate by the com-
pany of goldsmiths in London or Edinburgh, or the
Birmingham or Sheffield company, or by the wardens,
or assayer or assayers at York, Exeter, Bristol, Chester,
Norwich, or Newcastle upon Tyne, or any of them;
or shall cast, forge, or counterfeit, or cause or procure
to be cast, &c. any mark or stamp, or impression, made,
or to be made with any mark or stamp used or to be used
as aforesaid by the said company of goldsmiths, &c.; or
shall mark or stamp, or cause or procure to be marked,
&c. any wrought plate of gold, or any wares of silver,
brass, or other metal gilt over, and resembling plate of
gold, with any mark or stamp which hath been or shall
be forged, &c. at any time (either before, on, or after
the 1st of October 1798) in imitation of, or to resemble
any mark or stamp used or to be used as aforesaid by
the said company of goldsmiths, &c.; or shall transpose
or remove, or cause or procure to be transposed, &c.
from one piece of wrought plate to another, or to any
vessel of silver, brass, or other metal, any mark, stamp,
or impression, made or to be made by or with any mark
or stamp used or to be used by the said company of
goldsmiths, &c.; or shall sell, exchange, or expose to
sale, or export out of this kingdom, any wrought plate
of gold, or any vessel of silver, brass, or other metal,
with any such forged or counterfeit mark, &c. thereon,
or any mark, &c. transposed, &c. from any other piece
of plate, knowing such mark, &c. to be forged, &c. or
transposed, &c.; or shall wilfully or knowingly have or
be possessed of any mark or stamp which hath been
or shall be forged or counterfeited in imitation of and
to resemble any mark or stamp used or to be used as
aforesaid, by the said company of goldsmiths, &c.;
every

23 & 24 Geo. 3.
c. 23. s. 28. Ir.

*Similar offences,
how punished in
Ireland.*

every such offender shall be guilty of felony, and be transported to such place beyond the seas, as his majesty, with the advice of his privy council, shall direct, for 7 years. The 23 & 24 Geo. 3. c. 23. Ir. (which is an act to regulate the assay of gold, and promote the manufactures of gold and silver wares in Ireland) enacts (s. 28.) that if any person shall counterfeit, or cause to be counterfeited, any stamping instrument or punch, used or to be used in pursuance of this act, by any maker of gold wares, or by any warden, or deputy warden, or assayer of either of the assay-offices respectively; or shall have in his possession such counterfeit stamping instrument or punch, knowing the same to be counterfeited; or shall on any piece of gold, or of any kind of metal, or of any mixed metals, or of any composition containing any metal or metals, counterfeit or imitate, or cause to be counterfeited, &c. in any way whatever, any mark, stamp, or punch, or any impression of any mark, &c. made, or to be made in pursuance of this act, by any maker of gold wares, or by the warden or deputy warden, or assayer of either of said offices; or shall transpose or remove, or cause to be transposed, &c. from one piece of gold manufacture to another, or from any piece of gold manufacture to any manufacture made of any kind of metal, or of any mixed metals, or of any composition containing any metal of any kind, any mark or stamp, or any impression of any mark, stamp, or punch, made, or to be made in pursuance of this act, by any maker of gold wares, or by the warden, or deputy warden, or assayer of either of said assay-offices; or shall have in his possession, sell, or expose to sale, exchange, or expose to be exchanged, export or cause to be put on board any ship or vessel, with intent to export out of this kingdom, any manufacture made of gold, or of any kind of metal, or of any mixed metals, or of any composition containing any metal or metals, upon which such counterfeited or imitated mark, &c. shall have been made, or to which such real mark, &c. shall have been transposed, &c. as aforesaid, knowing such mark, &c. to have been counterfeited, &c. or such real mark,

mark, &c. to have been transposed, &c. as aforesaid; every such offender shall be transported for 7 years, or fined in such sum, and confined for such time as shall seem meet to the judge before whom such person shall be convicted. And by the 47 Geo. 3. st. 2. c. 15. s. 16. I. ^{47 Geo. 3. st. 2. c. 15. s. 16. 1r.} if any person shall cast, forge, or counterfeit, or cause or procure to be cast, &c. any mark or stamp used or ^{Forging, &c. stamp, &c. in gold or silver plate, required by this act;} directed to be used in pursuance of this act, for the marking or stamping of gold or silver plate; or shall cast, &c. (or cause, &c.) any mark, stamp, or impression, in imitation of, or to resemble any mark, &c. made or to be made with any mark or stamp, used or to be used as aforesaid; or shall mark or stamp, (or cause, &c.) any wrought plate of gold or silver, or any wares of silver, brass, copper, or other metal, gilt over or plated, and resembling plate of gold or silver, with any mark or stamp which hath been or shall be cast, forged, or counterfeited, in imitation of, or to resemble any mark or stamp used as aforesaid; or shall transpose or remove, ^{Or transposing, &c.;} (or cause, &c.) from one piece of wrought plate to another, or from any piece of wrought plate to any vessel of silver, brass, or other metal, any mark, stamp, or impression made or to be made by or with any mark or stamp used or to be used as aforesaid; or shall sell, ex- ^{Or selling, &c. wrought plate, &c. with forged mark, &c.} change, or expose to sale, or export out of Ireland, any wrought plate of gold or silver, or any vessel of silver, brass, or other metal, with any such forged or counterfeited mark, stamp, or impression thereon, or with any mark, &c. which hath been or shall be transposed or removed, or cut out from any piece of wrought plate, knowing such mark, &c. to be forged, counterfeited, transposed, cut out, or removed; or shall wilfully or knowingly have or be possessed of any mark or stamp which hath been or shall be forged or counterfeited in imitation of, or to resemble any mark or stamp used or to be used as aforesaid, every such offender shall be guilty of felony, and shall be sentenced to be trans- ^{A felony, how punished.} ported for 7 years, as other felons; and if any person shall cut out of one piece of wrought plate, any stamp, ^{Cutting out stamp, &c. to transpose, &c. how punished.} mark, or impression made or to be made by or with any mark

mark or stamp to be used as aforesaid, with intent to transpose or remove such stamp, &c. or with intent that the same shall be transposed or removed from one piece of wrought plate to another, or from any piece of wrought plate to any vessel of silver, brass, copper, or other metal, gilt or plated, and resembling plate of gold or silver, such offender shall forfeit £200.

Counterfeiting the name of reed-maker, &c. directed to be marked on linens;

3 Geo. 3. c. 34. s. 66. Ir.

Or the seal or stamp of the packer, &c.

Or altering stamp of seal-master, &c.

How punished.

13 & 14 Geo. 3. c. 21. s. 1. Ir.

Counterfeiting the name of any lapper on any piece of linen, &c. how punished.

21 & 22 Geo. 3. c. 35. s. 56. Ir.

Counterfeiting seal or stamp of lappers and seal-masters under this act, how punished.

The 3 Geo. 3. c. 34. Ir. (which is an act for the better regulation of the linen and hempen manufactures,) enacts (s. 66.) that if any person shall counterfeit the name of any reed-maker, or of any linen weaver or linen manufacturer, or the name of any buyer, or the name of any person keeping or occupying any bleach-yard, or the name of any draper hereby directed to be marked or stamped; or shall counterfeit the seal or stamp hereby appointed, or to be appointed for such packer, seal-master, or lapper as herein mentioned; or shall alter the figures or stamps made upon any piece of linen or hempen cloth by any seal-master or lapper to mark the length or breadth of the same; such person shall be condemned to stand in the pillory, or to be transported for 7 years, at the discretion of the judge who shall try such offence. And the 13 & 14 Geo. 3. c. 21. Ir. which requires the lapper's name and description to be marked on every piece of linen or hempen cloth, enacts, that if any person shall counterfeit the name of any lapper to any piece or part of a piece of linen or hempen cloth, he shall be condemned to stand in the pillory, or be transported for 7 years, at the discretion of the judge who shall try such offence. And the 21 & 22 Geo. 3. c. 35. Ir. which contains several provisions in respect to the appointment and duty of lappers and seal-masters, enacts (s. 56.) that if any person shall forge or counterfeit any seal or stamp which shall be made, ordered, or given out by virtue of this act, he shall suffer such punishment as is enacted by the *5 Geo. 3. c. 9. Ir. against any person counterfeiting the name of any lapper

* The 5 Geo. 3. c. 9. Ir. is an act for explaining and amending the laws relative to the flaxen and hempen manufactures, but contains no clause relative to the crime of forgery; and it is also erroneously referred to as passed in the 5th & 6th years of the king.

per appointed as therein mentioned. And the 42 Geo. 3. 42 Geo.3.c.75. s. 7. I.
 c. 75. I. which amends the laws for the better regulation
 of the linen manufacture in Ireland, and which requires all
 casks of flax seed or hemp seed, sold or exposed to sale, Counterfeiting,
 &c. brand, &c.
 on cask, &c. of
 flax seed or
 hemp seed, a
 felony.
 to be marked in a particular manner, enacts (s. 7.) that
 if any person shall counterfeit or fraudulently alter any
 brand or mark which shall be put on any cask or pack-
 age, pursuant to the provisions of this act, and shall be
 convicted thereof by indictment or information, he shall
 be adjudged guilty of felony, and suffer punishment
 accordingly, and may be transported as a felon.

CHAP. XV.

Of the Means of preventing Offences.

IT is one of the duties and powers of justices of peace
 by virtue of the 34 Edw. 3. c. 1. E. & I. to take of such Justices of peace
 to take surety
 for good beha-
 viour.
 as be not of good fame, sufficient *surety for their good*
behaviour towards the king and his people: But this 34 Edw. 3.c. 1.
 E. & I.
 statute has been already stated, vol. 1. p. 240-1.
 And to this head also is to be referred the provision of
 the 3 Hen. 7. c. 1. E. & I. which enacts, that every jus- 3 Hen. 7. c.1.
 E. & I.
 tice of peace that shall take any *recognizance of the peace*
for the keeping of the peace, shall certify, send, or bring Justices to cer-
 tify recogni-
 zances for the
 keeping of the
 peace.
 the same, at the next sessions of peace where he is or
 hath been justice, that the party so bound may be called;
 and if the party make default, the default shall be then
 and there recorded, and the same recognizance, with
 the record of such default, shall be sent and certified
 into the chancery, king's bench, or exchequer. The
 21 Jac. 1. c. 8. Eng. recites, that turbulent and conten- 21 Jac. 1. c. 8.
 s. 1. Eng.
 tious persons, some out of malice, and others in hope
 of gain by way of composition, do oftentimes upon their
 oaths

*Process of the
peace or good
behaviour not to
issue from Ch.
or K. B. unless
upon motion
in court, and
affidavit, &c.*

*Punishment for
false suggestion.*

*Writ of super-
sedeas to process
of the peace, &c.
how obtained.*

oaths, or upon false suggestions and surmises, procure process of the peace or good behaviour out of chancery and king's bench, against divers quiet subjects, whose dwellings are in counties remote from said courts, to their intolerable vexation, &c.; and therefore enacts, that all process of the peace or good behaviour to be granted or awarded out of either of said courts against any person, at the suit of or by the prosecution of any person, shall be void, unless such process shall be so granted, &c. upon motion made before the judge or judges of said courts respectively, in open court, and upon declaration in writing, upon oath to be then exhibited unto them by the parties which shall desire such process, of the causes for which such process shall be granted out of the said respective courts, and unless that such motion and declaration be mentioned to be made upon the back of the writ; the said writings there to be entered, and remain of record: And if it shall appear unto either of said courts, that the causes expressed in any such writing are untrue, then the judge of such court shall and may award such costs and damages unto the party grieved, for such wrongful vexation, as it shall think fit; and the party so offending shall be committed to prison by such judge or judges, until he pay said costs and damages. And on the other hand this act also recites, that turbulent and contentious persons deservedly fearing to be bound to the peace or good behaviour by the justices of peace of the counties where they dwell, do oftentimes procure themselves to be bound to the peace or good behaviour in the said courts, or one of them, upon insufficient securities, or upon colourable prosecution of some person who will be ready at all times to release them at their own pleasure; whereupon his majesty's writs of *supersedeas* are oftentimes directed to the justices of peace and other his majesty's officers, requiring them to forbear to arrest or imprison the parties for the causes aforesaid; and therefore enacts, that all writs of *supersedeas* to be granted out of either of said courts, shall be void, unless such process be granted likewise upon motion in open court, and

and upon such sufficient sureties as shall appear unto such court, upon oath, to be assessed at £5. lands or £10. in goods, in the subsidy book, at the least; which oaths, and the names of such sureties, with the places of their abode, and where they stand so assessed in the subsidy books, shall be entered and remain of record in said courts; and unless it shall also first appear to the judge or judges from whom such *supersedeas* is desired, that the process of the peace or good behaviour is prosecuted against him so desiring such *supersedeas*, *bona fide*, by some party grieved, in that court out of which such *supersedeas* is so desired. And this act further recites, (s. 4.) that evil disposed persons, commonly called bailers or knights of the post, being base and beggarly persons, do oftentimes procure themselves to be assessed at high rates in the subsidy books, and sometimes do falsely take upon them the names of other men of good ability, of purpose to enable themselves to be accepted for bail, and are ready for lucre to become bound by recognizance for such persons as shall procure themselves to be bound to the peace or good behaviour as aforesaid: And enacts (s. 5.) that the judge or judges of the said courts respectively, upon proof of any of the misdemeanors aforesaid, to be committed in obtaining of the aforesaid writs of *supersedeas*, or procuring such surety as aforesaid, shall likewise punish the false and insufficient sureties and bailers aforesaid, and the procurers thereof, according to their discretions, so as such punishment extend not to the loss of life or member. And the 10 & 11 Car. 1. c. 10. Ir. is the corresponding statute in Ireland.

s. 4 & 5.

False and insufficient bailers, how punished.

10 & 11 Car. 1. c. 10. Ir.

II. The following clauses of the 39 & 40 Geo. 3. c. 94.

§ 2.

Eng. seem to be proper for this place, as regarding not only the prevention of crimes or offences, but also as concerning the jurisdiction of justices of peace in respect to taking security for the peace or the good behaviour. This statute enacts (s. 3.) that if any person shall be discovered and apprehended under circumstances that denote a derangement of mind, and a purpose of committing some crime, for which, if committed, such person would

Justices of peace may commit dangerous persons suspected to be insane.

39 & 40 Geo. 3. c. 94. s. 3. Eng.

*Such persons
how bailed.*

s. 4.

*Powers of the
privy council
and secretaries
of state in re-
spect to such in-
sane persons as
threaten the per-
sonal safety of
his majesty.*

*Chancellor to
issue commission
to inquire into
the sanity of
such person, &c.*

would be liable to be indicted, and any of his majesty's justices of peace before whom such person may be brought, shall think fit to issue a warrant for committing him as a dangerous person suspected to be insane, such cause of commitment being plainly expressed in the warrant, the person so committed shall not be bailed except by 2 justices of the peace, one whereof shall be the justice who has issued such warrant, or by the court of quarter sessions, or by one of the judges of the courts in Westminster Hall, or by the lord chancellor. And this act provides (s. 4.) that if any person who shall appear to be insane, shall endeavour to gain admittance to his majesty's presence, by intrusion on any of his majesty's palaces or places of residence, or otherwise, so that there may be reason to apprehend that his majesty's person may be endangered, it shall be lawful for his majesty's privy council, or one of his principal secretaries of state, to cause such person to be brought before them or him; and if upon examination it shall appear that there is reason to apprehend such person to be insane, and that the person of his majesty may be endangered thereby, it shall be lawful for the privy council, or one of the principal secretaries of state, to order such person to be kept in safe custody in such place, and in such manner, as according to circumstances shall be ascertained; and for such purpose it shall be lawful for the lord chancellor to award a commission under the great seal, directed to certain commissioners to be therein named, to inquire into the sanity of such person, and whether the person of his majesty may be endangered, &c. and for such purpose to direct the sheriff of the county where such person shall be, to summon a jury to try the sanity of such person, and whether his majesty's person may be endangered, &c. in the same manner as juries are summoned to try the sanity of persons on a commission in the nature of a writ *de lunatico inquirendo*; and if upon the inquisition so taken, it be found that such person is so far insane, that the person of his majesty may be endangered by reason of the insanity of such person, it shall be lawful for the lord
chancellor

chancellor to take order for the safe custody of such person so long as there shall be reason to apprehend that the person of his majesty may be endangered, &c; and if it shall afterwards appear that such person shall have recovered the use of his reason, so that there shall be no longer any reason to apprehend any danger to his majesty's person, &c. it shall be lawful for the lord chancellor to inquire into the fact by such means as to him shall seem proper; and if it shall appear to his satisfaction that such person has so far recovered the use of his reason that there is no ground for apprehending any danger to his majesty's person, &c. it shall be lawful for the lord chancellor to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him shall seem meet. To which there is no corresponding act in Ireland.

If found insane, &c. chancellor to take order for his safe custody.

Such person to be discharged only by chancellor.

CHAP. XVI.

Of Courts of a Criminal Jurisdiction.

I SHALL reserve for the subsequent pages of this digest, the clause of the act of settlement 12 & 13 W. 3. c. 2. Eng. which respects impeachments in the *high court of parliament*; as also the clause of the 7 W. 3. c. 3. Eng. which not only respects *the court of the high steward*, but relates to all trials of peers for treason or misprision of treason. But with respect to the *court of king's bench* the 25 Geo. 3. c. 18. Eng. is to be here stated which recites, that the authority of justices under any commission of *oyer and terminer* or gaol delivery awarded into any county or place was suspended by the coming and sitting of the king's bench in such county, &c. and enacts, that when any session of *oyer and termi-*

§. 1. 2 & 3.

Commission of oyer and terminer, &c. may be held for Middlesex, notwithstanding the sitting of the king's bench, &c.

25 Geo. 3. c. 18. Eng.

ner

ner and gaol delivery of the gaol of Newgate for the county of Middlesex, shall have been begun to be holden before the essoign day of any term, the same session shall and may be continued to be holden, and the business thereof finally concluded, notwithstanding the happening of such essoign day of any term, or the sitting of the said court of king's bench at Westminster, or elsewhere in said county of Middlesex; and all trials, judgments, proceedings, &c. and all proceedings, &c. in pursuance of such judgments, had, made, and done at such session so continued to be holden after the essoign day of any term, &c. shall be good to all intents.

38 Geo. 3.c.38.
Ir.

So for county
and city of
Dublin.

And the 38 Geo. 3. c. 38. Ir. in a similar manner provides, that it shall be lawful for commissioners of *oyer* and *terminer*, and general or special gaol delivery, in and for the county of Dublin, and the county of the city of Dublin, respectively, to commence, hold, and continue their sessions during the time of term, and notwithstanding the court of king's bench may be sitting in the said counties respectively. And by s. 2. all precepts for holding any such sessions during term shall be valid.

§. 4.

Treasons, &c.
committed upon
the sea, &c.
how tried.

28 Hen. 8.c.15.
Eng.

IV. The 15 Ric. 2. c. 3. E. & I. which concerns the jurisdiction, criminal as well as civil, of the *court of admiralty*, has been already stated *ante* p. 57. But it was reserved for this place to state the following provisions of the 28 Hen. 8. c. 15. Eng. which enacts, that all treasons, felonies, robberies, murders, and confederacies, to be committed in or upon the sea, or in any haven, river, creek, or place, where the admiral or admirals have or pretend to have jurisdiction, shall be inquired, tried, heard, determined, and judged, in such shires and places in the realm as shall be limited by the king's commission to be directed for the same, as if such offence had been committed upon land; and such commissions shall be had under the king's great seal, directed to the admiral or his lieutenant,* deputy and deputies, and to 3 or 4 such substantial persons as shall be appointed by the lord chancellor, from time to time,

* "General"
here added in
11 12&13Jac.1
c. 2. Ir.

to

to hear and determine such offences after the common course of the laws of this realm used for treasons, &c. committed upon land. And by s. 2. such persons to whom such commissions shall be directed, or 4 of them at the least, shall have authority to inquire of such offences, by the oaths of 12 good and lawful inhabitants in the shire limited in their commission, in like manner as if such offences had been committed upon land within the shire; and every indictment found and presented before such commissioners of any treasons, felonies, robberies, murders, manslaughter, or such other offences, being committed upon the seas, or in or upon any haven, river, or creek, shall be good in law; and if any person be indicted for any such offence done upon the seas, &c. then such order, process, judgment and execution, shall be used, had, &c. to and against every such person so indicted, as against traitors, &c. for treason, felony, robbery, murder, or other such offence done upon the land is accustomed; and the trial of such offence, if it be denied by the offender, shall be had by 12 lawful men inhabiting in the shire limited within such commission; and no challenge to be had for the hundred; and such as shall be convicted of any such offence by verdict, confession, or process, by authority of any such commission, shall suffer such pains of death, losses of lands, goods and chattels, as if they had been attainted and convicted of any treasons, &c. done upon the land. Provided (s. 5.) that whensoever any such commission shall be directed to any place within the jurisdiction of the five ports, such commission shall be directed unto the lord warden of the said ports, or to his deputy, and unto 3 or 4 such other persons as the lord chancellor shall appoint. And by s. 6. whensoever any commission shall be so directed unto the five ports, the inquisition and trial by virtue of such commission, shall be by the inhabitants of the said five ports. And the 39 Geo. 3. c. 37. Eng. recites the 28 Hen. 8. *supra*, and that it is expedient to declare that other offences committed on the seas may be inquired of, &c. in like manner; and therefore enacts, and declares, that every offence

s. 2.

*Commissioners
how to proceed.**Such offences
how punished.*

s. 5.

*Proviso as to the
cinque ports.**39 Geo. 3. c. 37.
s. 1. Eng.**Provisions of the
28 Hen. 8. ex-
tended to all of-
fences.*

offence which shall be committed upon the high seas out of the body of any county, shall be an offence of the same nature, and liable to the same punishments, as if committed upon the shore; and shall be inquired of, &c. in the same manner as treasons, &c. are directed to be by said act. And by s. 2. when any person shall be tried for murder or manslaughter committed upon the sea, by virtue of any commission directed under said act, and shall be found guilty of manslaughter only, such person shall be entitled to benefit of clergy, and be subject to the same punishment, as if he had committed such manslaughter upon the land. The 11. 12 & 13 Jac. 1. c. 2. Ir. contains clauses corresponding to the 28 Hen. 8. c. 15. s. 1 & 2. Eng. *supra*. And the 23 & 24 Geo. 3. c. 14. Ir. further enacts (s. 4.) that all commissions to be issued in virtue of the 11. 12 & 13 Jac. 1. c. 2. *supra*, shall be directed to the judge of the court of admiralty to be appointed as by s. 1. (vol. 1. p. 159.) is provided, and to 3 or 4 such other discreet persons as shall be appointed by the lord chancellor, pursuant to said act; and such commissioners, or any 2 of them, and none other, shall and may hear, &c. every offence named in said recited act, and shall have all powers which any justices of *oyer and terminer*, or gaol-delivery, may exercise in respect to said offences when committed upon the land within this realm. But the 39 Geo. 3. c. 67. Eng. *supra*, has not been followed by any similar statute in Ireland.

§. 5. V. With respect to the courts of *oyer and terminer*, and *general gaol delivery*, it was provided by the 13 Edw. 1. st. 1. c. 29. E. & I. that a writ of trespass (*ad audiendum et terminandum*) shall not be granted before any justices except justices of either bench, and justices in eyre, unless it be for a heinous trespass where it is necessary to provide speedy remedy, and the king shall think it good to be granted. And the 2 Edw. 3. c. 2. E. & I. also enacts, that *oyers and terminers* shall not be granted but before justices of the one bench or the other, or the justices errant, and that for great hurt or horrible trespasses, and of the king's special grace. And the 34 Edw. 3. c. 1. E. & I. further enacts, that writs of *oyer and*

s. 2.

*Manslaughter
how punished.*11.12&13Jac.1
c. 2. Ir.23 & 24 Geo.3.
c. 14. s. 4. Ir.*What commis-
sioners to try
such offences in
Ireland.**Who to be com-
missioners of
oyer and termi-
ner, &c.*13 Edw. 1.st.1.
c. 29. E. & I.2 Edw. 3. c. 2.
E. & I.34 Edw. 3. c.1.
E. & I.

and *terminer* shall be granted according to the statutes thereof made, and that the justices thereto assigned shall be named by the court, and not by the party. And with respect to the justices of gaol delivery in particular, it was enacted by the 4 Edw. 3. c. 2. E. & I. that good and discreet persons (other than of the place) shall be assigned in all the shires of England, [to take assizes, juries, and certifications,] and to deliver the gaols at least 3 times a year, and oftener if need be. And the justices assigned to deliver the gaols shall have power to deliver the same gaols of those that shall be indicted before the keepers of the peace; and the said keepers shall send their indictments before the justices, and they shall have power to inquire of sheriffs, gaolers, and others, in whose ward such indicted persons shall be, if they make deliverance or let to mainprize any so indicted which be not mainpernable, and to punish the said sheriffs, &c. And by the 4 Edw. 3. c. 10. E. & I. the sheriffs and gaolers shall receive and safely keep in prison such thieves and felons as shall be delivered to them by the constables and townships, without taking any thing for the receipt of prisoners. And the justices assigned to deliver the gaol shall have power to hear complaints against the sheriffs and gaolers in such case, and to punish such sheriffs and gaolers if they be found guilty. By the 3 Hen. 7. c. 3. E. & I. every sheriff, bailiff of franchise, and every other person having the authority of keeping of gaol, or of prisoners for felony, are required to certify the names of every such prisoner in their keeping, and of every prisoner to them committed for any such cause, at the next general gaol delivery in every county or franchise where such gaol shall be, there to be calendared before the justices of the deliverance of the same gaol, whereby they may, as well for the king as for the party, proceed to make deliverance of such prisoners according to law, upon pain to forfeit unto the king for every default thereof 100s. The 1 Edw. 6. c. 7. s. 5. Eng. is to be here also stated, which provides, that where any person shall be found guilty of any treason, murder, man-

4 Edw. 3. c. 2.
E. & I.

Justices of gaol-delivery how often to sit, and what authority they shall have.

4 Edw. 3. c. 10.
E. & I.

Justices of gaol-delivery to inquire of defaults of sheriffs, &c. in respect to prisoners.

3 Hen. 7. c. 3.
E. & I.

Sheriffs, &c. to certify calendar of prisoners to justices of gaol-delivery.

1 Edw. 6. c. 7.
s. 5. Eng.

Justices of gaol delivery may give judgment of death against persons found guilty at a former commission.

10 Car. 1. st. 2. c. 14. Ir.

Where prisoner reprieved, or execution respited, justices of gaol-delivery under subsequent commission may award execution.

1 Ann. st. 1. c. 8. s. 5. Eng.

Commissions of oyer and terminer, &c. not determined by demise of the crown.

s. 4.

slaughter, rape, or other felony, for which judgment of death should or may ensue, and shall be reprieved to prison without judgment at that time given against him; those persons that at any time hereafter shall, by the king's letters patent, be assigned justices to deliver the gaol where any such person found guilty shall remain, shall have full power to give judgment of death against such person, as the same justices (before whom such person was found guilty,) might have done, if their commission of gaol delivery had continued in force. And

the 10 Car. 1. st. 2. c. 14. Ir. contains a corresponding clause. But this Irish statute further provides,

that where any person shall be adjudged and condemned of any manner of treason or felony, and shall be reprieved, or the execution respited for any cause, every person which shall by the king's commission be assigned justice to deliver the gaol where any such person so condemned shall remain not executed, shall have power to award execution upon such judgment against every person so condemned, as the same justice before whom such judgment was given might have done, if no cause had appeared to him for the stay, respiting or deferring of the execution, and as if his commission of gaol delivery had continued in force. The 1 Ann. st. 1. c. 8.

Eng. is to be here stated which provides (s. 5.) that by the demise of the king or queen of this realm, [no commission of assize,] *oyer and terminer*, general gaol delivery, or of association, writ of assistance, or commission of the peace, shall be determined, but shall continue for 6 months, unless superseded by the successor; [and no original writ, writ of *nisi prius*, commission or proceedings in or issuing out of any court of equity,] nor any process upon any inquisition, nor any *certiorari*, or *habeas corpus*, nor any writ of attachment or process for contempt, nor any commission of delegacy or review for any matters ecclesiastical, testamentary, or maritime, or any process thereupon, shall be determined by the demise of the crown.* And by s. 4. no writ, plea, or process upon any indictment, or information for a misdemeanor, [or any writ,

* Vide 1 Edw. 6. c. 7. s. 6. Eng. ante, p. 216.

writ, process, or proceeding for any debt or account that shall be due to the crown, for any lands or other revenue,] that shall be depending at the time of the demise of the crown, shall be discontinued or put without day by reason of their deaths or demises. By s. 6. this act shall extend to Ireland, Jersey, Guernsey, and other dominions of the crown. And this statute is adopted in Ireland by the 21 & 22 Geo. 3. c. 48. Ir. And with respect to justices of assize, it was provided by the 27 Edw. 1. st. 1. c. 3. E. & I. that justices assigned to take assizes, in every county where they take assizes, immediately after the assizes taken in the shires, shall remain both together if they be lay; and if one of them be a clerk, then one of the most discreet knights of the shire, being associate to him that is a layman by the king's writ, shall deliver the gaols of the shires, as well within liberties as without, of all manner of prisoners, after the form of the gaol-deliveries of those shires before used. And the same justices shall inquire then, if sheriffs, or any other, have let out by replevin prisoners not replevisable, or have offended in any thing against the 3 Edw. 1. c. 15. *post.* chap. 19. and whom they shall find guilty they shall punish according to the 3 Edw. 1. And the 2 Edw. 3. c. 2. E. & I. recites, that offenders had been greatly encouraged, because the justices of gaol-delivery and of *oyer* and *terminer* had been procured by great men against the form of the 27 Edw. 1. *supra*; and enacts, that such justices shall not be made against the form of the said statute. The 4 Edw. 3. c. 11. E. & I. 1 Ric. 2. c. 7. E. & I. and 32 Hen. 8. c. 9. Eng. which have been already stated, *ante* p. 600-1-2. are to be here referred to. And by the 20 Edw. 3. c. 6. E. & I. the justices assigned to take assizes shall have commissions sufficient to inquire in their sessions, of sheriffs, escheators, bailiffs of franchises, and their under-ministers, and also of maintainers, common embracers, and jurors in the country, and of the gifts, rewards, and other profits, which the said ministers do take of the people to execute their office, and for making the array of panels, putting in the same suspected jurors, and of maintainers, em-

No process upon indictment, &c. discontinued by demise of the crown.

s. 6.

Act extends to king's dominions

27 Edw. 1. st. 1. c. 3. E. & I.

Justices of assize empowered to deliver gaols, &c.

2 Edw. 3. c. 2. E. & I.

20 Edw. 3. c. 6. E. & I.

bracers, and jurors who take gifts and rewards of the parties. And the 23. Hen. 6. c. 10. E. & I. which prohibits sheriffs, under-sheriffs, clerks, bailiffs, gaolers, coroners, stewards, bailiffs of franchises, and other officers and ministers, from extorting money for omitting to arrest or attach any party by virtue of their office, or shewing ease or favour to those who shall be arrested, or by admitting persons to bail, or denying them the benefit of it, provides, that justices of assize in their sessions, &c. shall have power to inquire, hear and determine, of office, without special commission, of and upon all of them that do contrary to these ordinances. And by other statutes, several of which will be found in the preceding parts of this work, justices of assize are authorized or directed to exercise a criminal jurisdiction in sundry cases. By the 14 Hen. 6. c. 1. E. & I. the Justices before whom inquisitions, inquests, and juries, shall be taken by the king's writ of *nisi prius*, shall have power in all cases of felony and treason, to give their judgments, as well where a man is acquitted of felony or treason, as where he is thereof attainted, the day and place where the said inquisitions, &c. be so taken, and then from thenceforth to award execution to be made by force of the said judgments.

23 Hen. 6. c. 10.
E. & I.

14 Hen. 6. c. 1.
E. & I.

*Jurisdiction of
justices before
whom inquisi-
tions, &c. shall
be taken by nisi
prius.*

§. 6.

*Quarter sessions
of the peace
when to be held.*

2 Hen. 5. st. 1.
c. 4. E. & I.

*Proviso as to re-
sidence.*

12 Ric. 2. c. 10.
E. & I.

VI. Next as to the *court of the general quarter sessions of the peace*. The 2 Hen. 5. st. 1. c. 4. E. & I. provides, that the justices of the peace in every shire named of the *quorum*, shall be resident within the same shire, (except lords named in the commission of the peace, and also except justices of the one bench and of the other, the chief baron of the exchequer, serjeants at the law, and the king's attorney, for the time that they shall be occupied in the king's service) and shall make their sessions 4 times by the year, *viz.* in the first week after Michaelmas, Epiphany, Easter, and the translation of St. Thomas the Martyr, and oftener if need be; and that the same justices shall hold their sessions throughout England in the same weeks every year. And by the 12 Ric. 2. c. 10. E. & I. they were also required to keep their sessions in every quarter of the year at the least, by 3 days, upon pain to be punished

at

at the discretion of the king's council, at the suit of every man that will complain. The time of holding the sessions of the peace in Ireland is regulated by the 38 Geo. 3. c. 25. s. 1. *Ir. ante* p. 64. The 34 Edw. 3. c. 1. E. & I. and the other statutes which have been stated vol. 1. p. 240 to 251. and p. 590 to 592. are to be here also referred to: others also will be found in a subsequent chapter, but the following are proper for this place.

The 11 Hen 6. c. 6. E. & I. recites, that divers pleas and processes depending before justices of peace have been often discontinued by making of new commissions of the peace in those counties, in delay of the same pleas and suits, &c.; and enacts, that in all such pleas, suits, and processes before justices of peace, the said pleas, &c. shall not be discontinued by such new commissions of the peace, but those pleas and processes shall stand in force. And the justices in such new commissions assigned, after they shall have the records of the said pleas and processes before them, shall have power to continue the same pleas and processes; and the same pleas, &c. and all that depend upon them, to hear and determine, as the other justices might have done, if no new commission had been made. And the other statutes already stated vol. 1. p. 248—9. and *ante* p. 1110. are to be here referred to.

Suits, &c. before justices not discontinued by new commission of the peace.

11 Hen. 6. c. 6. E. & I.

To prevent delays of proceedings at the quarter sessions of the peace, the 5 & 6 W. & M. c. 11. s. 2 Eng.* enacts, that in term time no writ of *certiorari*, at the prosecution of any party indicted, shall be granted out of the king's bench, to remove any indictment, or presentment of trespass or misdemeanor, before trial had, from before [†the justices in sessions,] unless such *certiorari* shall be awarded upon motion of counsel,‡ and by rule of court made for the granting thereof, in open court; and all the parties indicted prosecuting such *certiorari*, before the allowance thereof, shall find 2 sufficient manucaptors,

Certiorari to remove proceedings before justices, how obtained.

5 & 6 W. & M. c. 11. s. 2 & 4 Eng.

* This statute supersedes the 21 Jac. 1. c. 8. 7. Eng.

† "Justices in the courts of general assizes or quarter sessions of the peace," in 8 Ann. c. 5 Ir.

‡ "On affidavit," here added in 8 Ann. c. 5. Ir.

captors, who shall enter into a recognizance [*before a justice of peace of the county or place] in the sum of £20. with condition at the return of the writ to appear and plead to the said indictment or presentment in the king's bench, and at their own costs to procure the issue that shall be joined upon the said indictment, &c. or any plea relating thereto, to be tried at the next assizes to be held for the county wherein the said indictment, &c. was found, after such *certiorari* shall be returnable; and if in the cities of [†London, Westminster, or county of Middlesex,] then to cause it to be tried the next term after wherein such *certiorari* shall be granted, or at the sitting after the said term, unless the court shall appoint another time, and if so then at such time; and to give due notice of such trial to the prosecutor or his [‡clerk] in court: And the said recognizance shall be certified into the king's bench, with the *certiorari* and indictment, to be there filed; and the name of the prosecutor, (if he be the party grieved) or some public officer, shall be indorsed on the indictment: And if the person prosecuting such *certiorari*, being the defendant, shall not, before allowance thereof, procure such manucaptors to be so bound in a recognizance, the justices, &c. shall proceed to trial at said sessions notwithstanding such *certiorari* delivered. By s. 3. if the defendant prosecuting the writ of *certiorari* be convicted of the offence for which he was indicted, then the court of king's bench shall give reasonable costs to the prosecutor, if he be the party grieved, or be a justice of peace, mayor, bailiff, constable, headborough, tithingman, churchwarden, or overseer of the poor, or other civil officer, who prosecutes on account of any thing that concerns him as an officer, to be taxed according to the course of said court, who shall, for the recovery thereof, within 10 days after demand and refusal of payment, on oath, have an attachment granted; and the recognizance shall not be discharged till the costs are paid. And by s. 4. in the vacation

† "Attorney"
in 8 Ann. c. 5.
Ir.

Recognizance to
be certified, &c.

s. 3.

Defendant pro-
secuting the writ
of *certiorari* to
pay costs, if con-
victed.

s. 4.

* "Before the justices to whom the same shall be delivered" in 8 Ann. c. 5. Ir.

† "County of Dublin, and county of the city of Dublin," in 8 Ann. c. 5. Ir.

vacation writs of *certiorari* may be granted by any of the justices of the king's bench, whose names shall be indorsed,* and the name of the person at whose instance they are granted; and before the allowance of any such writ, the party indicted, prosecuting such *certiorari*, shall find sureties, in such sum, and with such conditions, as before mentioned. This statute enacts, (s. 5.) that upon every *certiorari* granted within the counties palatine of Chester, Lancaster, or Durham, to remove indictments or presentments for any of the matters aforementioned, all the parties indicted prosecuting such *certiorari* shall find such sureties, to be bound in such sums, and with such conditions, and at their own costs shall procure the issue joined upon the said indictments, &c. to be tried at the next assizes or general gaol delivery for said counties, and shall give like notice to the prosecutor, and, if convicted, shall be liable to like costs, as by this act is provided in cases where the same are granted out of the king's bench at Westminster. By s. 6. if any indictment or presentment be against any person for not repairing of any highways, causeways, pavements, or bridges, and the right to repair the same may come in question, upon such suggestion, and affidavit made of the truth thereof, a *certiorari* may be granted to remove the same into the king's bench; Provided nevertheless that the party prosecuting such *certiorari* shall find 2 manucaptors as aforesaid. And by the 8 & 9 W. 3. c. 33. Eng. the party prosecuting any *certiorari* to remove any indictment from the quarter-sessions, may find 2 manucaptors to enter into a recognizance before any of the justices of the king's bench, in the same sum, and under the same condition as is required by the 5 & 6 W. & M. *supra*, whereof mention shall be made on the back of the writ, under the hand of the justice taking the same, which shall be as effectual to stay proceedings as if taken before a justice of peace of the county, &c.; and it shall be added to the condition of the recognizance, that the party shall appear from day to day in the king's bench.

Writs of certiorari how obtained in vacation.

s. 5.

Certiorari how obtained in Chester, Lancaster, or Durham.

s. 6.

Proviso as to indictments, &c. for not repairing highways, &c.

8 & 9 W. 3.
c. 33. Eng.

Recognizance may be entered into before a justice of king's bench.

* "Upon affidavit of the truth of the suggestion for granting the same" here added in the 8 Ann. c. 5, s. 3. 1r.

bench, and not depart till discharged by the court.
 5 Geo. 2. c. 19. s. 2. Eng. The 5 Geo. 2. c. 19. Eng. further enacts, (s. 2.) that

*Further recogni-
zance required
for obtaining
certiorari.*

no *certiorari* shall be allowed to remove any judgment or order, unless the party prosecuting such *certiorari*, before the allowance thereof, shall enter into a recognizance with sufficient sureties before a justice of peace of the county or place, or before the justices at their general quarter sessions or general sessions, where such judgment or order shall have been given or made, or before a justice of the king's bench, in £50. with condition to prosecute the same at his own costs, with effect and without wilful delay, and to pay the party in whose favour such judgment, &c. was given, &c. within one month after such judgment, &c. shall be confirmed, his full costs, to be taxed according to the course of the court where such judgments, &c. shall be confirmed; and in case the party prosecuting such *certiorari*, shall not enter into such recognizance, or shall not perform the conditions aforesaid, it shall be lawful for said justices to make such further order for the benefit of the party for whom such judgment shall be given, as if no *certiorari* had been granted. And by s. 3. the recog-

s. 3.
*Such recogni-
zance certified,
&c.*

nizance so taken shall be certified into the king's bench at Westminster, and there filed with the *certiorari* and order, or judgment removed thereby; and if said order, &c. shall be confirmed by said court, the person entitled to such costs, for the recovery thereof, within 10 days after demand made, upon oath of such demand and refusal of payment, shall have an attachment granted; and the recognizance shall not be discharged till the costs are paid, and the order complied with. And by the 13 Geo. 2. c. 18. s. 5. Eng. no *certiorari* shall be

13 Geo. 2. c. 18. s. 5. Eng.

*Within what
time certiorari
to be applied for.*

allowed to remove any conviction, judgment, order or other proceeding had or made before any justice of peace of any county, &c. or the respective general or quarter sessions thereof, unless such *certiorari* be moved or applied for within 6 calendar months next after such conviction, &c. and unless it be duly proved upon oath, that the party suing forth the same hath given 6 days notice thereof in writing to the justice or justices, or 2 of them, (if so many there be) by and before whom such conviction

conviction, &c. shall be so had or made, to the end that such justice, or the parties therein concerned, may shew cause against such *certiorari*. The 8 Ann. c. 5. Ir. ^{8 Ann. c. 5. Ir.} contains clauses corresponding to those of the 5 & 6 W. & M. c. 11. Eng. *supra*, excepting the 5th section, and with such other exceptions as are noted in the margin. But the amendment made by the 8 & 9 W. 3. c. 33. Eng. *supra* has not been adopted by any Irish statute. Neither is there any statute in Ireland containing clauses corresponding or similar to those of the 5 Geo. 2. c. 19. Eng. and 13 Geo. 2. c. 18. Eng. *supra*.

The 5 Geo. 2. c. 19. Eng. contains also a provision proper for this place. By s. 1. upon all appeals to be made to the justices of peace at their respective general or quarter sessions to be holden for any county, &c. within England, against judgments or orders of any justices of peace, such justices so assembled at such sessions, shall, within their respective jurisdictions, upon every such appeals so made, cause any defect of form that shall be found in such original judgments or orders, to be amended without any cost to the parties concerned, and after such amendment made, shall proceed to examine the truth and merits of matters concerning such original judgments, &c. and likewise to examine witnesses upon oath, and hear all other proofs relating thereto, and to make such determinations thereupon as by law they should have done, in case there had not been such defect or want of form. No Irish statute contains any similar provision.

The 33 Geo. 3. c. 55. Eng. enacts, that it shall be lawful for any 2 or more justices of the peace, assembled at any special or petty sessions of the peace, upon complaint being made upon oath before them, of any neglect of duty, or of any disobedience of any lawful warrant or order of any justice of peace, by any constable, or overseer of the poor, or other peace or parish officer, (such constable &c. having been duly summoned to appear and answer such complaint) to impose, upon conviction, any reasonable fine, not exceeding 40s. upon such constable, &c. as a punishment for such disobedience,

Upon appeals to sessions mere defects in form cured.

5 Geo. 2. c. 19. s. 1. Eng.

Power of justices at sessions as to fining constables, &c. for disobedience.

33 Geo. 3. c. 55. s. 1. Eng.

disobedience, &c. and, by warrant of any 2 or more such justices so assembled, to direct such fine, if not paid, to be levied by distress, &c. rendering the overplus (if any) after deducting the amount of such fine, and the charges of such distress, &c. to such offender; and for want of such distress, such person shall be committed to the house of correction for any time not exceeding 10 days; and such fine so imposed shall be applied for the relief of the parish, township, or place, where such offender shall reside, at the discretion of the justices imposing the same; and if any person shall be aggrieved by the imposition of such fine as aforesaid, or by any order or warrant of distress for raising the same, or by the determination of said justices, or by any act done in the execution of such warrant of distress, such person may appeal to the next general or quarter sessions to be held for the county, &c. within which such person shall reside, of which appeal 10 days notice shall be given. Provided (s. 2.) that no person acting under such warrant of distress shall be deemed a trespasser *ab initio*, by reason of any irregularity in such warrant, or in any proceedings thereon, but any person aggrieved by the issuing or execution of such warrant, may recover special damages in an action of trespass, or on the case, in any court of record. No Irish statute contains any similar provision.

Appeal to sessions.

s. 2.

Persons executing warrants not trespassers ab initio.

Recorders of cities may appoint deputies to attend at sessions.

21&22 Geo. 3. c.42.s.5 &6.Ir.

And with respect to the constitution of the court of quarter sessions, the 21 & 22 Geo. 3. c. 42. Ir. recites, (s. 5.) that by the charters and constitutions, and by the laws now in being with respect to several cities within Ireland, it is required that the mayor, recorder, and one or more justices of the peace of such cities and counties of cities, should personally attend and be present at the holding of all sessions of the peace within such cities, &c. and that great inconveniencies have arisen from the absence of the recorder of such cities, occasioned by sickness, accident, or necessary avocations, whereby such sessions cannot be holden; and enacts, that the recorder of such cities shall have power by writing under his hand and seal, in cases of sickness or necessary absence, with the consent of the chief magistrate

gistrate, to appoint a deputy being a barrister at law, to fill the place of such recorder at such sessions, and adjournments thereof, during the absence of such recorder. And by s. 6. the deputy so constituted shall have the same power in all respects at such sessions, as the said recorder would have had if personally present. It is also a provision of the 39 Geo. 3. c. 55. Ir. that in all cities, the chief and other magistrate shall be competent to open and adjourn all sessions of the peace in the absence of the recorder of such city, and also to swear grand and market juries, but that no trial shall be proceeded upon except in the presence of the recorder or his sufficient deputy, being a barrister of 6 years standing, who shall be empowered by this act to preside at all such sessions, or adjournments of the same, though the chief or other magistrates should not be able to attend the same. And the 36 Geo. 3. c. 25. s. 17. Ir. *ante p. 66.* is to be here referred to.

VII. With respect to the office of *custos rotulorum*, to whose custody the records or rolls of the sessions are committed: the 37 Hen. 8. c. 1. Eng. recites, that heretofore the chancellor of England for the time being had, by reason of his office, the nomination and appointment of the *custos rotulorum* within every shire, &c.; and that the *custos rotulorum* had, until now of late, the nomination and appointment of the clerk of the peace within such shires where he enjoyed the office of *custos rotulorum*; and, for reformation of certain abuses herein recited, and that the same offices may be hereafter occupied and exercised by such persons learned in the laws of the realm as shall be able to exercise the same, enacts, that no person shall be appointed to the office of *custos rotulorum*, but such as shall have a bill signed with the king's hand for the same; which bill signed shall be a sufficient warrant to the lord chancellor, to make from time to time a commission assigning and authorizing every such person to be *custos rotulorum*, until the king hath, by another bill signed with his own hand, appointed one other person to have and exercise said office; and the person so appointed and assigned to be *custos rotulorum* shall and may exercise and enjoy the same office by himself, or by his sufficient deputy learned

39 Geo. 3. c. 55.
s. 4. Ir.
Other magis-
trates may open
and adjourn ses-
sions.

§. 7.

Custos rota-
lorum how ap-
pointed.
37 Hen. 8. c. 1.
Eng.

learned in the laws of the realm, according to the tenor
 of said grant or commission. And by s. 3. every *custos*
rotulorum shall in every shire nominate, elect, appoint
 and assign every person which hereafter shall be clerks
 of the peace within such shires, and grant said office to
 such able person instructed in the laws of this realm as
 shall be able to exercise the same, to hold the same
 during the time that the said *custos rotulorum* shall
 occupy the office of *custos rotulorum*, so that the said
 clerk demean him in the said office justly and honestly;
 and it shall be lawful for every such grantee of said
 clerkship to occupy the said office by himself, or his
 sufficient deputy instructed in the laws, so that such de-
 puty be admitted by the said *custos rotulorum* to be suf-
 ficient, &c. Provided (s. 5.) that the archbishop of
 York, the bishop of Durham, the bishop of Ely, and
 their successors, and every person and corporation to
 whom the king or any of his progenitors by his letters
 patent hath granted any liberty and authority, or other-
 wise hath lawful authority to make and constitute any of
 the said officers of *custos rotulorum*, or clerk of the peace,
 within any county palatine, or other place, shall and may
 have and enjoy the same. And this statute is revived and
 confirmed by the 1 W. & M. st. 1. c. 21. s. 4. Eng. which
 statute further enacts, that the *custos rotulorum*, or other
 person to whom of right it doth belong to nominate or
 appoint the clerk of the peace for any county, &c. shall
 appoint a sufficient person residing in the said county,
 &c. for which he is so appointed clerk of the peace, to
 execute the same by himself or his deputy, and to re-
 ceive the fees, profits, and perquisites thereof, for so
 long only as such clerk of the peace shall well demean
 himself in his said office. And by s. 6. if any clerk of
 the peace shall misdemean himself in the execution of
 his office, and a complaint thereof in writing shall be
 exhibited against him to the justices of peace in their
 quarter sessions, it shall be lawful for said justices, or
 the major part of them, upon examination and due proof
 thereof, openly in their said sessions, to suspend or dis-
 charge him from said office; and in such case the *custos*
rotulorum

s. 3.

*Cus. Rot. to ap-
 point clerk of the
 peace.*

s. 5.

*Proviso as to the
 archbishop of
 York, &c.*

1 W. & M. st. 1.
 c. 21. s. 4. Eng.

*Clerks of the
 peace to be ap-
 pointed to con-
 tinue during
 good behaviour.*

s. 6.

*Justices at
 quarter sessions
 may remove
 them for misbe-
 haviour.*

rotulorum, or other person to whom it shall belong to nominate and appoint the clerk of the peace for such county, &c. shall appoint one other sufficient person re-^{Substitute how appointed.}siding in said county, &c. to be clerk of the peace in the place of such person so removed; and in case of refusal or neglect to make such nomination and appointment before the next quarter sessions to be holden after the said refusal, it shall be lawful for said justices at their quarter sessions for said county, &c. or the major part of them, to appoint a sufficient person residing in said county, &c. to be clerk of the peace in the place of the person so removed, to hold said office, and to execute the same by himself, or his sufficient deputy, and to receive the fees, &c. thereof. Provided (s. 7.) that he shall be liable to all the penalties, &c. and conditions, &c. herein mentioned, and may be amoved by the said justices, &c. as above specified. By s. 8. it shall not be lawful for any *custos rotulorum*, or other person to whom it shall belong to ap-^{Cust. Rot. not to sell the office of clerk of the peace.}point any clerk of the peace, to sell the said place, or to take any bond or other assurance to receive any reward, money, fee, or profit, directly or indirectly, to him or any other person, for such nominating, &c.; but every such *custos rotulorum*, or other person, that shall so sell the clerkship of the peace, and every clerk of the peace who shall so buy his place, shall be disabled to hold their respective places, and shall also re-^{Penalty.}spectively forfeit double the sum or value that shall be so given or taken, to be recovered by him (to his own use) that shall sue for the same, by action of debt, &c. in any of the king's courts at Westminster. And by s. 9. every clerk of the peace, before he enter upon the execution of his office, shall in open sessions take the oath following: "I *A. B.* do swear, that I have not, nor^{Oath of clerk of the peace.} will pay any sum or sums of money, or other reward whatsoever, nor given any bond or other assurance to pay any money, fee, or profit, directly or indirectly, to any person or persons whomsoever, for such nomination or appointment. So help me God." No statute

tute similar to either of these has been made in Ireland.

§. 8.

*Sheriff's tourn
when held.*

9 Hen. 3. c. 35.
E. & I.

31 Edw. 3. st. 1.
c. 15. E. & I.

52 Hen. 3. c. 10.
E. & I.

*Who exempted
from attending
the tourn.*

1 Ric. 3. c. 4.
E. & I.

*What jurors to
be returned.*

13 Edw. 1. st. 1.
c. 13. E. & I.

*Jurisdiction
of tourn.*

VIII. Next as to the *sheriffs' tourn* and *court leet*: It is one of the provisions of the Great Charter, 9 Hen. 3. c. 35. E. & I. that no sheriff, or his bailiff, shall make his tourn through the hundred, but twice in a year, and at the place accustomed, *viz.* once after Easter, and again after the feast of St. Michael. And the 31 Edw. 3. st. 1. c. 15. E. & I. further enacts, that the sheriff shall make his tourn yearly, within one month after Easter, and another time within a month after Michaelmas, and if he holds it in other manner, he shall lose his tourn for the time. By the 52 Hen. 3. c. 10. E. & I. archbishops, bishops, abbots, priors, earls, barons, nor any religious men, or women, need not come to the sheriffs tourn, except their appearance be specially required thereat for some other cause: And if any have tenements in different hundreds, they shall not be bound to appear at the tourn, but in the bailiwicks where they be dwelling. And by the 1 Ric. 3. c. 4. E. & I. no bailiff, nor other officer, shall return or impanel any person upon an inquisition in the tourn, but such as be of good name and fame, and having lands and tenements of freehold within the same shires, to the yearly value of 20s. or copyhold lands, &c. within such shire, to the yearly value of 26s. 8d.; on pain of forfeiting 40s. and the sheriff other 40s. the one half to the king, and the other to such as will sue in that behalf, by action of debt, wherein, &c.; and every indictment otherwise taken shall be void. And by the 13 Edw. 1. st. 1. c. 13. E. & I. sheriffs in their tourns, and in other places where they have power to inquire of trespasses by the king's precept, or by office, shall cause their inquests to be taken by 12 lawful men at the least, who shall put their seals to such inquisitions; and those that shall be found guilty by such inquests, they shall imprison as they have used to do; and if they imprison other than such as have been indicted by such inquest, the parties imprisoned shall have their action by a writ of imprisonment against the sheriffs. And so shall it be observed of every bailiff of franchise. By the 1 Edw. 3. st. 2. c. 17. E. & I.

c. 17. E. & I. sheriffs, and bailiffs of franchises, and others that take indictments in their tours, or elsewhere where indictments ought to be made, shall take such indictments by roll indented, whereof the one part shall remain with the indictors, and the other part with him that taketh the inquest, so that the indictments shall not be embezzled, and so that one of the inquest may shew the one part of the indentures to the justices, when they come to make deliverance. By the 9 Hen. 3. c. 17. E. & I. sheriffs, constables, escheators, coroners, and others bailiffs, are prohibited from holding pleas of the crown. And the 1 Edw. 4. c. 2. E. & I. further enacts, that upon all indictments and presentments before any of the king's sheriffs in his counties, their under sheriffs, clerks, or bailiffs or ministers, at their tours or law days, they nor any of them, shall have power to attach, arrest, or put in prison, or to levy or take any fine or amercement of any person so indicted or presented, by reason of any such indictment or presentment; but the said sheriffs, &c. shall deliver all such indictments, &c. to the justices of peace at their next sessions to be holden in said counties; upon pain of forfeiting to the king £40. And the said justices of peace shall have power to award process upon all such indictments and presentments as the law doth require, and in like form as if the said indictments, &c. were taken before the said justices of peace; and also to arraign and deliver all such persons so indicted and presented before the said sheriffs, &c.; and such persons which shall be indicted or presented of trespass, shall make such fine as shall seem lawful by their discretion; and the estreats of such fines and amercements shall be inrolled, and by indenture be delivered to the said sheriffs, &c. or some of them, to the use and profit of him that was sheriff at the time of such indictments, &c. taken. And if any of the said sheriffs, &c. do arrest, attach, or put in prison, or cause any fine or ransom to be taken, or levy any amercement of any person so indicted or presented, by reason or colour of any such indictment, &c. taken before them at their tours or law days, before that they have process from the said justices of peace,

or

1 Edw. 3. st. 2.
c. 17. E. & I.*Indictments, &c.
to be on rolls
indented.*9 Hen. 3. c. 17.
E. & I.*Sheriffs, &c. not
to hold pleas of
the crown.*1 Edw. 4. c. 2.
s. 1. E. & I.*Sheriffs, &c. to
deliver indict-
ments found, to
be tried by jus-
tices at sessions.*

*Penalty for
default.*

s. 2.

*Proviso as to
London.*

6 Geo. 1. c. 6.
s. 15. Ir.

*Court leet, &c.
when and where
to be held in
Ireland.*

or estreats delivered out, of the said indictments, &c. so brought, delivered and presented to them, then such sheriffs shall forfeit £100. one half to be employed to the expenses of the king's house, and the other half to the party which is endamaged, to be recovered by action of debt, &c. Provided (s. 2.) that this act shall not extend to the sheriffs of the city of London. The 6 Geo. 1. c. 6. Ir. recites (s. 15.) that many sheriffs, and their undersheriffs, for their private gain and advantage, do hold their courts in the remotest corners and parts of baronies, where the greatest part of the inhabitants cannot resort without loss of their time and business; and enacts, that the sheriffs' court-leet or county court shall be held in the most convenient place in each barony, which lies nearest to the centre of the same, and at a seasonable time in the day after the hour of 9 in the morning, on pain that the sheriff, or under-sheriff, offending herein, shall be fined by the justices at the next assizes or sessions, on complaint and proof made thereof before them upon oath.

§. 9.

IX. The statutes which respect the jurisdiction of coroners, will be found, vol. 1. p. 236. to 240.

§. 10.

*Clerk of the
market where, to
execute his
office.*

16 Car. 1. c. 19.
s. 3. Eng.

X. With respect to the court of the *clerk* of the market, it is to be observed, that the statutes which are abridged, *ante* p. 696. to 700. seem to have superseded the principal part of the jurisdiction of this court. But the following clauses of the 16 Car. 1. c. 19. Eng. and 22 Car. 2. c. 8. Eng. may be here stated. By the former of these acts s. 3. the clerk of the market of the king's or prince's household shall only execute their offices within the verge; and head officers of corporations, and lords of liberties, and their deputies, may execute the said offices according to their liberties. And by s. 4. if any of the officers aforesaid shall seal any weight or measure which is not agreeable to the standard, or shall refuse to seal such as are agreeable, (paying only such fees as are allowed by statute or ancient custom) they and their deputies shall forfeit £5. to be levied by the church-wardens and overseers of the poor (or one of them) where the offence shall be committed, to the use of the poor.

s. 4.

*Penalty for
sealing false
weights, &c.*

And

And by s. 5. if they shall take any common fine, fee, or other sum of money, than what are allowed by statute or ancient custom, for the signing or examination of any weights or measures which have been formerly marked or sealed, or shall impose any fine or amercement without a legal trial of the offence, or shall otherwise misdemean themselves in their office, they shall forfeit for the 1st offence £5. for the 2nd £10. and for every other offence £20. to be levied as aforesaid to the use of the poor. By s. 6. he that is fined or amerced by this act, shall not be again punished for the same offence by any former law. And by s. 8 & 9. if any officer authorized to execute this statute shall be impleaded for any act he shall do therein, he may plead the general issue, not guilty: and if he be found not guilty, or the plaintiff be non-suited, he shall recover treble costs. And it is a provision of the 22 Car. 2. c. 8. Eng. that if the clerk of the market within the verge, or the mayor or other head officer, lord of liberty, or other person authorized to seal measures, shall neglect, being required, to seal any bushel, half bushel or peck duly gauged, he shall forfeit for the 1st offence £5. and for every other offence £10. to be levied by distress, &c.; or if the clerk of the market within the verge, shall take more than the lawful fees, or if any other person shall exact more than 1*d.* for the sealing of a bushel, or $\frac{7}{2}$ *d.* for a half bushel or peck, or $\frac{1}{4}$ *d.* for the sealing of any measure containing one gallon, pottle, quart, pint or half pint, he shall incur the penalties in the 16 Car. 1. c. 19. *supra.* And by s. 3. if any mayor, or other head officer, of any city, borough, or liberty, shall knowingly and wilfully suffer any person to sell or buy corn or salt by any other measure, or shall suffer any other measure to be used, or if upon complaint of the breach of this statute they shall not duly punish the same, they, upon conviction thereof, by presentment or indictment before the justices of peace of the county where such offence shall be committed, at the general sessions, shall forfeit £5. one moiety to the informer, the other to the poor of the parish, to be levied by distress, &c.; and for default of distress, by imprisonment till payment, by

s. 5.

Penalty for extortion, &c.

s. 6.

Proviso.

s. 8. & 9.

Officers protected against vexatious actions

22 Car. 2. c. 8. s. 4. Eng.

Penalty for neglect of clerk of market, &c. to seal measures.

s. 3.

Penalty of mayors, &c. permitting the use of any other than the measure in the exchequer.

s. 6. warrant of the justices. And by s. 6. every constable in
Duty of constables. their precincts, shall search if any person use any other
 measure than as aforesaid, or shall strike the same in
 any other manner than this act directs, or sell or buy by
 a measure unsealed: And in case he shall find any such
 unsealed measure, he shall seize and break the same;
 and for every other offence shall present such offender
 at the next private or quarterly sessions, to be held for
 such county or place where such offence shall be com-
 mitted: Provided (s. 7.) that no person punished by this
 act shall be again questioned for the same offence by any
 other act. And by the 22 & 23 Car. 2. c. 12. s. 4. Eng.
Proviso. where in markets there is not a clerk of the market to
 seal measures, the mayor, bailiffs, or head officer, or
 other person who hath the benefit of such market, shall
 seal all measures duly gauged that shall be brought to
 them, taking no more than by the 22 Car. 2. c. 8. *supra*,
 is appointed. The 4 Ann. c. 14. Ir. and 7 W. 3. c. 24.
Who to seal measures where no clerk of market. Ir. which have been stated, vol. 1. p. 162-3. are to be
 here referred to.

§. 9. IX. With respect to *ecclesiastical courts*: it is a provi-
No person exercising ecclesiastical jurisdiction to tender the oath ex officio. sion of the 13 Car. 2. st. 1. c. 12. Eng. that it shall not be
 lawful for any archbishop, bishop, vicar-general, chan-
 cellor, commissary, or other spiritual or ecclesiastical
 judge, officer, or minister, or any other person having
 or exercising spiritual or ecclesiastical jurisdiction, to ten-
 der or administer to any person the oath called the oath *ex*
officio, or other oath, whereby such person may be charged
 or compelled to confess or accuse, or to purge himself of
 any criminal matter or thing, whereby he may be liable
 to any censure or punishment. No Irish statute con-
 tains any similar provision. The 27 Geo. 3. c. 44. Eng.
 enacts, that no suit for defamatory words shall be com-
 menced in any of the ecclesiastical courts within Eng-
 land, &c. unless the same shall be commenced within 6
 calendar months from the time when such defamatory
 words shall have been uttered. And by s. 2. no suit
 shall be commenced in any ecclesiastical court, for for-
 nication, or incontinence, or for striking or brawling in
 any church or church-yard, after the expiration of 8 ca-
 lendar

*Limitation for causes of defama-
 tion.*

*Limitation for
 suits for forni-
 cation, &c.*

lendar months from the time when such offence shall have been committed; nor shall any prosecution be commenced or carried on for fornication at any time after the parties offending shall have lawfully intermarried. And for the preventing of all vexatious suits and dilatory proceedings in ecclesiastical courts, the 6 Geo. 1. c. 6. Ir. 6 Geo. 1. c. 6. s. 9. Ir.

enacts (s. 9.) that no citation *ex mero officio* shall be issued out of any ecclesiastical court against any person on account of any crime or immorality, which is punishable or corrigible by the ecclesiastical law, except such crime, &c. shall, in the manner hereafter mentioned, appear to have been committed within 2 years next before the issuing of such citation. And by s. 10. every

Citations ex mero officio not issued after 2 years.

voluntary promoter of office, applying to any ecclesiastical judge for the issuing a citation on account of any crime or immorality, or some credible witness voluntarily offering himself to be produced by the said promoter, and to be examined, shall, before the obtaining of such citation, be personally interrogated and examined upon oath by such ecclesiastical judge concerning the grounds and reasons of issuing such citation, which oath every ecclesiastical judge is hereby empowered to administer to such promoter or witness; and every ecclesiastical judge shall cause the examination of such promoter or witness to be reduced into writing, and subscribed by the examinant, and attest the same as repeated before him, and then lodge such written examination, so attested, in the registry of the court whereof he is judge; and in case it shall not appear by such examination, that the said crime, &c. has been committed within 2 years as aforesaid, no citation shall issue; and after publication is decreed, the said judge shall cause the said examination to be annexed unto such depositions as are taken in the cause then depending on such citation; and if upon hearing of the said cause it shall appear, that such voluntary promoter has failed in proving what in the said examination was alleged, such promoter shall be condemned in double costs. And by s. 11. all persons who by law are required or enabled to make any presentments unto any ecclesiastical judge, shall, before

s. 10.

Ecclesiastical judge to examine upon oath the grounds upon which citations are sought to be issued.

Examination lodged with register.

Promoter failing to pay double costs.

s. 11.

Ecclesiastical judge to examine also the ground for presentments.

When citation shall not issue thereon.

When person presented shall be dismissed without fees.

s. 12.

Citations otherwise granted, void.

s. 13.

Causes of defamation may be tried in a summary way.

s. 14.

Proviso as to visitation, &c.

such presentment be received, and citation thereon granted, upon oath be interrogated, &c. or produce some credible witness to be interrogated, &c. as aforesaid, by the ecclesiastical judge unto whom such presentment is made; (which oath every ecclesiastical judge is hereby empowered to administer,) which examination every such judge shall cause to be reduced into writing, and attest, and lodge in the registry, and annex the same unto the depositions in manner above mentioned; and in case it shall not appear by the said examination, that there is sufficient ground for such presentment, or that the crime or immorality in such presentment mentioned; was committed within 2 years next before the making thereof, no citation shall issue thereupon; and if upon hearing the cause upon such presentment, the allegations in such examination contained shall not be sufficiently proved; or if the person presented shall otherwise purge himself according to law from the charge of such crime or immorality for which he is so presented, he shall forthwith be dismissed without any fees to be paid to any person. By s. 12. all citations by any ecclesiastical judge, to be issued either at the instance of such voluntary promoter of the office, or upon presentment as aforesaid, without such examination as hereinbefore required to warrant and support the prosecution, shall be of none effect, and all proceedings thereon void. By s. 13. in all causes to be commenced in any ecclesiastical court, on account of defamation cognizable in the ecclesiastical court, it shall be lawful for the ecclesiastical judge of such court, at the motion of either party, to proceed in a summary way; and such summary proceeding in any cause of defamation, shall be as valid as if the same had been in the ordinary and plenary way. Provided (s. 14.) that nothing in this act shall extend to hinder any archbishop or bishop, or their vicars general, or any ordinary, from proceeding against any ecclesiastical persons subject to their visitation, and within their respective jurisdictions, for any neglect of duty, or for any fault cognizable in the ecclesiastical court, either at their respective visitations, or otherwise, in like manner as if this act had not been made.

X. The

X. The 33 Hen. 8. c. 12. Eng. by which the court of §. 10.
the *lord steward of the king's household*, or (in his absence)
of the treasurer, comptroller, and steward of the mar-
shalsea, was erected, has been fully stated, *ante* p. 577.
to 580.

CHAP. XVII.

Of Summary Convictions.

THE jurisdiction of the commissioners and sub-com- §. 1.
missioners, for the trial of offences and frauds in respect *Commissioners*
to the excise and other branches of the revenue, is de- *of excise and*
rived in England from the 12 Car. 2. c. 23. & c. 24, *customs.*
15 Car. 2. c. 11. 5 W. & M. c. 20. 6 W. & M. c. 1. 9 Geo. 1.
c. 21. 23 Geo. 2. c. 26. 24 Geo. 2. c. 40. and 33 Geo. 2.
c. 9. And in Ireland the courts of the commissioners
and sub-commissioners of customs and port duties, and
the commissioners and sub-commissioners of inland ex-
cise and taxes, and of the commissioners of appeals, are
constituted under and by virtue of the 14 & 15 Car. 2.
c. 8. and c. 9. Ir. 46 Geo. 3. c. 58. and c. 106. I.
and 48 Geo. 3. c. 62. I. to which I shall content my-
self with referring, as the code of revenue laws and re-
gulations is a peculiar branch in itself, which it is beside
the purpose of this work to state.

II. With respect to the summary proceeding of justices §. 2.
of peace out of sessions, the provisions of the following *Justices of peace*
statutes may be referred to this head. First as to the limits *of counties re-*
of their jurisdiction: The 9 Geo. 1. c. 7. s. 3. Eng. enacts, that *siding in cities,*
if any justice of peace shall dwell in any city or other pre- *&c. may not-*
cinct that is a county of itself, situate within the county at *withstanding act*
therein for their
proper counties.
large

9 Geo. 1. c. 7.
s. 3. Eng.

Proviso.

28 Geo. 3. c. 49.
s. 4. Eng.

*Justices of peace
of counties, may
act in cities, &c.
for their proper
counties.*

s. 1.

*Justice of peace
for 2 adjoining
counties, may
act for either if
resident in one.*

large for which he shall be appointed justice of peace, although not within the same county, it shall be lawful for such justice to grant warrants, take examinations, and make orders for any matters, which any justice of peace may act in at his own dwelling house, although such dwelling house be out of the county where he is authorized to act as a justice of peace, and in some city or other precinct adjoining that is a county of itself; and all such warrants and other acts of any justice of peace, and the acts of any constable, &c. or other officer, in obedience to such warrant, &c. shall be valid, although it be out of the limits of the proper precinct or authority: Provided that nothing in this act shall extend to give power to the justices of peace for the counties at large, to hold their general quarter sessions of the peace in the cities or towns which are counties of themselves, nor to empower justices of peace, sheriffs, bailiffs, constables, &c. or other peace officers of the counties at large, to intermeddle in any matters arising within cities or towns which are counties of themselves; but such actings and doings shall be of the same effect as if this act had never been made. And the 28 Geo. 3. c. 49. Eng. recites the 9 Geo. 1. c. 7. s. 3. *supra*, and for removing doubts in respect to the construction of said clause, enacts, that it shall be lawful for any justice of peace acting for any county at large, to act as such at any place within any city, town, or precinct, being a county of itself, and situate within, surrounded by, or adjoining to any such county at large; and every act done by such justice of peace for the county at large within such city, &c. shall be as valid as if the same had been done within the said county at large: provided that nothing in this act shall give power to the justices of peace for any county at large, not being justices for such city, &c. or any constable or other officer acting under them, to act or intermeddle in any matters arising within such city, &c. And this act further provides (s. 1.) that it shall be lawful for any justice of peace acting as such for any 2 or more counties being adjoining counties, to act as a justice in all matters relating to either of said counties; and all acts of such justice, and the acts of any constable or

or other officer in obedience thereto, shall be as valid as if done in the county to which such acts more particularly relate : and all constables and other officers of the said county to which such acts relate, shall obey the warrants, orders, and acts of such justice, so granted, given and done, and perform their several duties under the penalties to which any constable or other officer may be liable for a neglect of duty : provided that such justice be personally resident in one of said counties at the time of doing such act : provided also, that the warrants, &c. so to be given and granted, be directed and given, in the first instance, to the constable or other officer of the county to which the same more particularly relate.

And by s. 2. it shall be lawful for any constable or other peace officer, or other person apprehending any person

s. 2.

offending against law, and whom they lawfully ought to take into custody by virtue of their office, or otherwise, to convey the person so apprehended to any justice of peace acting for said county, and resident in such adjoining county ; and the said constables, &c. shall act in

*Constables, &c
may carry of-
fenders into ad-
joining county
before such
justices.*

all things as if the said justice was resident within the said county to which they respectively belong ; and every person obstructing the said constables, &c. in the execution of their offices, in the said county or counties adjoining as aforesaid, shall be liable to the same penalties for such obstruction, as if the same had been committed in the county for which the said constables, &c. were appointed to act. By s. 3, it shall be lawful for

s. 3.

any sheriff, or other person deputed by him, or acting under his authority, constable, or other peace officer, or any other person lawfully having in his custody any person offending against law, and whom he might lawfully convey to gaol, or any place of safe custody, to convey said person into and through any part of the said county so adjoining, in their way to such gaol or place of safe custody within the county wherein such offence was committed ; and every person escaping from such custody, or aiding or assisting such escape, or rescuing such person so in custody, shall be subject to the like penalties for such escape, &c. as if such escape, &c. had hap-
pened,

*Sheriffs, &c may
convey such of-
fenders through
such adjoining
county to gaol of
proper county.*

15 Geo. 2. c. 24.
Eng.

Offenders apprehended in cities, &c. may be sent to house of correction of county if city contributory.

pened, &c. in the county wherein such offence was committed. And it is enacted by the 15 Geo. 2. c. 24.

Eng. that where any person liable to be committed to the house of correction shall be apprehended within any liberty, city, or town corporate, whose inhabitants are contributory to the support of the house or houses of correction of the county, riding, or division in which such liberty, &c. is situate: such person shall be received and dealt with, and be set and kept to hard labour, or conveyed and sent away, or discharged, and be liable to the same correction and punishment, as if committed by any justice of peace of the same county, &c.

33 Geo. 3. c. 55.
s. 3. Eng.

If no sufficient distress in the county where warrant granted penalty may be levied in any other county where there is distress.

And the 33 Geo. 3. c. 55. Eng. may be here stated, which enacts, (s. 3.) that in all cases where any penalty, forfeiture, fine, or other money, may, by the warrant of any justice of peace, be directed to be levied by distress and sale of the goods and chattels of any person, if sufficient distress cannot be found within the limits of the jurisdiction of the justice granting such warrant of distress, on oath thereof made by one witness, before any justice of peace of any other county, riding, division, city, borough, town corporate, or place, (which oath shall be by him certified by indorsement on such warrant) such penalty, &c. or so much thereof as may not have been before levied or paid, shall and may, by virtue of such warrant and indorsement, be raised and levied by the person to whom such warrant of distress shall have been originally directed, by distress and sale of the goods, &c. of such person in such other county, &c.; and the money arising by such distress, &c. shall be applied in like manner as if sufficient goods, &c. of such person had been found within the jurisdiction of the magistrate originally granting such warrant; and if no such distress can be found, such offender shall be forthwith proceeded against according to law: provided that no justice who shall indorse any certificate upon, or exercise the execution of any such warrant of distress which may not have been granted within his jurisdiction, shall be answerable for any irregularity which may have been committed in the obtaining or granting of such warrant. The law of Ireland does not contain any similar provisions.

Several

Several statutes in the following chapter are also connected with this view of the jurisdiction of justices of peace.

Next with respect to the consideration of interest in the subject matter: The 16 Geo. 2. c. 18. Eng. enacts, that it shall be lawful for every justice of peace for any county, riding, city, liberty, franchise, borough or town corporate, within their jurisdictions, to make, do, and execute every matter appertaining to their office as justices of peace, so far as relates to the laws for the relief, maintenance, and settlement of poor persons; for passing and punishing vagrants; for repair of the highways, or to any other laws concerning parochial taxes, levies, or rates within any such parish, township, or place affected by any such act of such justice. Provided (s. 3.) that this act shall not authorize any justice of peace for any county or riding at large, to act in the determination of any appeal to the quarter sessions for such county, or riding, from any order, &c. relating to any such parish, township, or place where such justice is so taxed or chargeable.

Justices of peace may act in execution of poor laws, &c. though interested as inhabitants.

16 Geo. 2. c. 18. Eng.

s. 3.

Proviso.

As to the jurisdiction of justices of peace in respect to imprisoning offenders: The 17 Geo. 2. c. 5. Eng. recites (s. 32.) that doubts have arisen where authority is given to any justice or justices of peace to commit offenders to the house of correction, for offences cognizable before them out of the general or quarter sessions of the peace, how long offenders may be there detained, and in what manner treated, where the time and manner of their punishment is not by law expressly directed; and enacts, that where any offenders shall be so committed, by virtue of any law now in being or hereafter to be made, and the time and manner of their punishment is not expressly limited, such justice, &c. shall commit such offender to the house of correction, to be kept to hard labour until the next general or quarter sessions, or until discharged by due course of law; and it shall be lawful for 2 justices (of which the justice who committed such offender to be one) to discharge the said offender before said sessions, if they see cause; and if he shall not be so discharged, the said sessions may either discharge him

Where term of imprisonment by justice is undefined in statute, how justices shall proceed.

17 Geo. 2. c. 5. s. 32. Eng.

him, or continue him in custody for such time as they shall see fit, not exceeding 3 months. The 27

27 Geo. 3. c. 11.
Eng.

*Justices of peace
may commit ei-
ther to common
gaol or house of
correction.*

Geo. 3. c. 11. Eng. further enacts, that it shall be lawful for any justice of peace within his jurisdiction, to commit either to the common gaol, or to any house of correction within his jurisdiction, as to such justice shall seem most proper, such vagrants, and other criminals, offenders, and persons charged with or convicted of small offences, as by any law now in force, or hereafter to be made, he is or shall be authorized to commit to the common gaol. The only Irish statute analogous to these above mentioned is the 23 & 24 Geo. 3. c. 41. Ir. which in analogy to the 27 Geo. 3. c. 11. Eng. *supra*, recites, (s. 16.) that by several statutes, persons convicted of petty offences are committed to the county or city gaol under sentences and orders made by a justice or justices of peace at their sessions, or in a summary way, and not according to the course of the common law; and enacts, that it shall be lawful for any justice of peace so authorized by said statutes, to commit such persons so charged or convicted before him, to imprisonment in the house of correction within his jurisdiction, in lieu of such county or city gaol.

23 & 24 Geo. 3.
c. 41. s. 16. Ir.

*Justices though
directed by sta-
tute to commit
to gaol, may
commit to house
of correction.*

For the more easy and effectual proceeding upon distresses to be made by warrants of justices of the peace; the 27 Geo. 2. c. 20. Eng. enacts, that when any justice of peace is or shall be required or empowered by any act of parliament to issue a warrant of distress for the levying of any penalty inflicted, or any sum of money directed to be paid, by or in consequence of such act, it shall be lawful for the justice granting such warrant, therein to order the goods, &c. so distrained, to be sold and disposed of within a certain time to be limited in such warrant, so as such time be not less than 4 days, nor more than 8 days, unless the penalty, &c. for which such distress shall be made, together with the charges of taking and keeping such distress, be sooner paid. And by s. 2. the officer making such distress is empowered to deduct the reasonable charges of taking, keep-
ing,

*Justices of peace
empowered to
sell distress
made for pe-
nalties.*

27 Geo. 2. c. 20.
Eng.

s. 2.

ing, and selling such distress, out of the money arising from such sale; and the overplus, (if any) after such charges and also the penalty, &c. shall be paid, shall be returned on demand to the owner of the goods, &c. so distrained; and the officer executing such warrant shall shew the same to the person whose goods, &c. are distrained, and shall suffer a copy thereof to be taken. Provided (s. 3.) that nothing herein shall extend to alter or repeal any of the provisions or directions relating to distresses to be made for the payment of tithes and church rates, by the people called quakers, contained in the 7 & 8 W. 3. c. 34. Eng. and 1 Geo. 1. st. 2. c. 6. Eng.

Costs of distress to be deducted.

s. 3.

Proviso.

As to the jurisdiction of justices of peace with respect to costs; the 18 Geo. 3. c. 19. Eng. enacts, (s. 1.) that where any complaint shall be made before any justice of peace for any county, &c. and any warrant or summons shall issue thereupon, it shall be lawful for such justice who shall have heard and determined the matter of said complaint, to award such costs to be paid by either of the parties, in such manner as to him shall seem fit, to the party injured: and in case any person so ordered by said justice to pay such sum, shall not forthwith pay down or give security for the same to the satisfaction of the justice, it shall be lawful for said justice by his warrant to levy the said sum by distress, &c. and where goods of such person cannot be found, to commit such person to the house of correction for the county, &c. wherein such person shall reside, to be kept to hard labour for any time not exceeding a month, nor less than 10 days, or until such sum, together with the expenses attending the commitment of such person to such house of correction, be first paid. Provided (s. 2.) that upon the conviction of any person upon any penal statute, where the penalty shall amount to or exceed £5. the said costs shall be deducted by said justice, according to his discretion, out of the said penalty, so that the said deduction shall not exceed one fifth part; and the remainder shall be paid to or divided amongst the person or persons who would have been entitled to the whole in case this act had not been made. Provided (s. 9.) that

Justices empowered to award costs.

18 Geo. 3. c. 19. s. 1. Eng.

s. 2.

Proviso where penalty amounts to £5.

s. 9.

Justices in sessions may make and alter rules as to costs.

(s. 9.) that it shall be lawful for his majesty's justices of peace for any county, &c. in quarter sessions assembled, to lay down or alter from time to time such rules and regulations as to any costs or charges to be allowed to any person by virtue of any part of this act, as to them shall seem just; which rules, &c. having received the approbation and signature of one or more of the judges of *oyer and terminer* or general gaol delivery, at the assizes of the county wherein such rules shall have been made, shall be binding, and not otherwise; and no person shall be allowed a greater sum than according to the rules, &c. so approved of. No Irish statute, of a general nature, contains any similar provisions.

Justices of cities &c. removeable upon information in king's bench.

1 Geo. 3. c. 11. Ir.

The 1 Geo. 3. c. 11. Ir. may be here stated, which recites, that great abuses are committed by justices of peace acting under the charters of cities and towns corporate, and it may be a doubt whether such justices are removeable from their office, &c.; and therefore enacts, that if any such justice shall wilfully commit any offence contrary to his duty as a justice of peace, such justice shall, upon conviction of such offence, on an information to be filed in the king's bench, be for ever disabled to act as a justice of peace within such city or town corporate, in case the court, &c. before whom such information shall be tried, shall, in open court, before the same is adjourned, certify under their hand, that they are satisfied with the verdict given upon such information. By s. 2. the trial of all such informations shall be had in some indifferent county to be appointed by the court of king's bench. Provided (s. 3.) that nothing in this act shall extend to justices of peace appointed by any commission of the peace issued by the king. No English statute contains any similar provision.

s. 2.

Informations where tried.

s. 3.

Proviso.

CHAP.

CHAP. XVIII.

Of Arrests.

THE 24 Geo. 2. c. 55. Eng. which amends the 23 Geo. 2. c. 26. s. 11. Eng. provides, that in case any person against whom a warrant shall be issued by any justice of peace of any county, riding, division, city, liberty, town, or place within this kingdom, shall escape, go into, reside, or be, in any other county, &c. out of the jurisdiction of the justice granting such warrant, any justice or justices of peace of the county, &c. where such person shall so escape, &c. shall, upon proof being made, upon oath, of the handwriting of the justice granting such warrant, indorse his or their name or names on such warrant, which shall be a sufficient authority to the person bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute such warrant in such other county, &c. and to apprehend and carry such offender before the justice who indorsed such warrant, or some other justice of such other county, &c. where such warrant was indorsed;* in case the offence for which such offender shall be so apprehended in such other county, &c. shall be bailable in law, and such offender shall be willing and ready to give bail for his appearance at the next assizes or general gaol delivery, or next general quarter sessions of the peace, to be held in and for the county, &c. where the offence was committed, such justice of such other county, &c. before whom such offender shall be brought, shall and may take bail of such offender for his appearance at such next assizes, &c. in the same manner as the justices of peace of the proper county, &c. should or might have done in such proper county, &c.; and the justice of such other county, &c. so taking bail shall deliver the recognizance, together

Offenders escaping may be taken upon warrants indorsed.

24 Geo. 2. c. 55. Eng.

* The word "And" seems to be here omitted.

Proceeding upon such warrants, where offence bailable, or not.

gether with the examination or confession of such offender, and all other proceedings relating thereto, to the constable, tithingman, or other person so apprehending such offender, who shall receive the same, and deliver over such recognizance, &c. to the clerk of assizes or clerk of the peace of the county, &c. where such offender is required to appear by such recognizance; and such recognizance, examination, and confession, shall be as valid as if entered into, taken, or acknowledged, before a justice of peace in and for the proper county where the offence was committed, and the same proceedings shall be had thereon; and in case such constable, &c. to whom such recognizance, &c. shall be so delivered, shall refuse or neglect to deliver over the same to the clerk of assizes or clerk of the peace of the county, &c. where such offender is required to appear by such recognizance, he shall forfeit £10. to be recovered by any person who will prosecute or sue by bill, plaint, or information, in any of his majesty's courts at Westminster, wherein, &c.: And in case the offence for which such offender shall be apprehended in any other county, &c. shall not be bailable in law, or such offender shall not give bail for his appearance at the next assizes or general gaol delivery, or next general quarter sessions of the peace, to be held in and for the county, &c. where the offence was committed, to the satisfaction of the judge before whom such offender shall be brought in such other county, &c.; then the constable, &c. so apprehending such offender, shall convey him before a justice of peace of the proper county, &c. where such offence was committed, to be dealt with according to law. By s. 2. no action of trespass, false imprisonment, information or indictment, or other action, shall be brought, &c. by any person against the justice who shall indorse such warrant, for or by reason of his indorsing such warrant. Provided (s. 3.) that such person shall be at liberty to bring or prosecute his action or suit against the justice who originally granted such warrant, as if this act had not been made. And the 13 Geo. 3. c. 31. Eng. further provides, that if any person

s. 2.

*No action, &c.
maintainable
against justices,
&c. for acting
under such
warrants.*

s. 3.

Proviso.

person against whom a warrant shall be issued by any justice of peace of any county, &c. within England, for any crime or offence against the laws of that part of the united kingdom, shall escape, go into, reside, or be, in any place of Scotland, it shall be lawful for the sheriff, or steward-depute, or substitute, or any justice of peace of the county or place where such person shall escape, &c. to indorse his name on said warrant; which warrant so indorsed, shall be a sufficient authority to the person bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriffs' officers, stewards' officers, constables, and other peace officers of the county, &c. where such warrant shall be so indorsed, to execute the said warrant in the county or place where it is so indorsed, by apprehending the person against whom such warrant is granted, and to convey him into the county, &c. of that part of England (being adjacent to that part of Scotland) in which the crime was committed, and before a justice of peace of such county, &c. to be dealt with according to law: or in case the crime was committed in a county not next adjacent to that part of Scotland, then to convey him into any county of England next adjacent to that part of Scotland, and before a justice of peace of such county, which justice shall proceed with regard to such person in the manner directed by the 24 Geo. 2. c. 55. *supra*. And by s. 2. if any person against whom a warrant shall be issued by the lord justice general, lord justice clerk, or any of the lords commissioners of judiciary, or by any sheriff or steward-depute, or substitute, or justice of peace of Scotland, for any offence against the laws of that part of the united kingdom, shall escape, go into, reside, or be, in any place of England, it shall be lawful for any justice of peace of the county, &c. where such person shall escape, &c. to indorse his name on said warrant; which warrant, indorsed, shall be a sufficient authority to the person bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county, &c. where such warrant shall

13 Geo. 3. c. 31.
s. 1. Eng.

*Warrants how
executed in
Scotland against
offenders in
England.*

s. 2.

And vice versa.

s. 3.

Expenses of removing prisoners how defrayed.

44 Geo. 3. c. 92. U. K.

Escape warrants how executed in Ireland, where offence bailable or not.

shall be so indorsed, to execute the said warrant in the county, &c. where it is so indorsed, by apprehending the person against whom such warrant is granted, and to convey him into the county or place of that part of Scotland (being adjacent to that part of England) where the crime was committed, and before the sheriff, or steward-depute, or substitute, or one of the justices of peace of such county or place; or in case the crime was committed in a county not next adjacent to that part of England, then to convey him into any county of Scotland next adjacent to that part of England, and before the sheriff, or steward-depute, or substitute, or one of the justices of peace of such county; which sheriff, &c. shall proceed with regard to such person according to the rules and practice of the law of Scotland, as if said person had been apprehended in said county. By s. 3. the expense of removing prisoners as aforesaid shall be repaid to the person defraying the same, by the treasurer of the county of that part of England, or by the sheriff, or steward-depute, or substitute, of the county of that part of Scotland in which the crime was committed; the amount of that expense being previously ascertained by an account thereof verified upon oath before 2 justices of peace of such county, and allowed and signed by them. And the 44 Geo. 3. c. 92. U. K. provides, that in case any person against whom a warrant shall be issued by any justice of peace of any county, city, liberty, town or place, within Ireland, shall escape, go into, reside, or be, in any other county, &c. out of the jurisdiction of the justice granting such warrant, any justice of peace for the county, &c. where such person shall escape, &c. shall, upon proof being made upon oath of the hand writing of the justice granting such warrant, indorse his name on such warrant, which indorsement shall be a sufficient authority to the person bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute such warrant in the county, &c. where the same was indorsed, and to apprehend and carry such offender before the justice who indorsed such warrant,

warrant, or before some other justice of such other county, &c. where such warrant was indorsed; and in case the offence for which such offender shall be apprehended shall be bailable in law, and such offender shall be willing and ready to give bail for his appearance at the next assizes or general gaol delivery, or next general quarter sessions of the peace to be held in and for the county, &c. where the offence was committed, such justice by whom such warrant was indorsed, or such other justice before whom such offender shall be brought, shall and may proceed with such offender, and take bail for his appearance at such next assizes, &c. in the same manner as the justices of peace of the proper county, &c. should or might have done in such proper county, &c.; and the justices so taking bail, shall deliver the recognizance, together with the examination and confession of such offender, and all other proceedings relating thereto, had before such justice, to the constable, or other officer or person so apprehending such offender, who shall receive the same, and deliver over such recognizance, &c. to the clerk of the crown, or clerk of the peace, of the county, &c. where such offender is required to appear by such recognizance; and such recognizance, &c. shall be as valid as if the same had been entered into, taken, or acknowledged before a justice of peace in and for the proper county, &c. where the offence was committed, and the same proceedings shall be had thereon; and in case any constable, &c. to whom such recognizance, &c. shall be so delivered, shall refuse or neglect to deliver over the same to the clerk of the crown or clerk of the peace of the county, &c. where such offender is required to appear by such recognizance, such constable, &c. shall forfeit, £5. Irish currency, to be recovered by bill, civil bill, plaint or information in any court of record in Ireland, by any person who will prosecute or sue for the same, wherein, &c.; and in case the offence for which such offender shall be apprehended as aforesaid, shall not be bailable in law, or such offender shall not give bail for his appearance at the next assizes, &c. to the satisfaction of the justice

s. 2.

Justices protected against actions, &c.

before whom he shall be brought, then the constable, &c. so apprehending such offender, shall carry such offender before a justice of peace of the proper county, &c. where such offence was committed, to be dealt with according to law. And by s. 2. no action of trespass, false imprisonment, or indictment, or other action, shall be brought, &c. by any person against the justice who shall indorse such warrant, for or by reason of his indorsing such warrant: Provided that such person shall be at liberty to bring his action or suit against the justice who originally granted such warrant, in the same manner as if this act had not been made. And this act recites (s. 3.) [*that it may frequently happen that felons and other malefactors in Ireland make their escape into Great Britain, and *vice versa*, whereby their offences often remain unpunished;] and enacts, that if any person against whom a warrant shall be issued by any judge of the king's bench, or any justice of *oyer and terminer* or gaol delivery, or any justice of peace, or other person having authority to issue the same within Ireland, for any crime or offence against the laws in force in Ireland, shall escape, go into, reside, or be, in any place in England or Scotland, it shall be lawful for any justice of peace of the county, stewartry, riding, division, city, liberty, town or place, in England or Scotland respectively, whither or where such person shall escape, &c. to indorse his name on such warrant, which warrant so indorsed shall be a sufficient authority to the person bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all constables or other peace officers of the county, &c. where such warrant shall be so indorsed, to execute the said warrant in the county, &c. where it is so indorsed, by apprehending the person against whom such warrant is granted, and to convey him by the most direct way into Ireland, and before a justice of peace of the county in Ireland, living near the place and in the county where he shall arrive and land; which justice shall proceed with regard to such person, as if the said person had been

s. 3.

Irish malefactors how arrested in England.

* The 13 Geo. 3, c. 31. Eng. ante p. 1139, contains a similar recital.

been legally apprehended in the said county in Ireland. And for remedy of the like inconveniency by the escape into Ireland of persons guilty of crimes in England or Scotland, this statute enacts (s. 4.) that if any person against whom a warrant shall be issued by any of the judges of his majesty's court of king's bench, or of the courts of great sessions in Wales, or any justice of *oyer and terminer* or gaol delivery, or any justice of peace of any county, &c. within England or Scotland, or other person having authority to issue the same within England or Scotland, for any crime or offence against the laws of England or Scotland, shall escape, go into, reside, or be, in any place of Ireland, it shall be lawful for any justice of peace of the county or place in Ireland, whither or where such person shall escape, &c. to indorse his name on such warrant, which warrant, so indorsed, shall be a sufficient authority to the person bringing such warrant, and to all persons to whom such warrant was originally directed, and also to all sheriffs, officers, constables, and other peace officers, of the county or place in Ireland where such warrant shall be so indorsed, to execute the said warrant in the county or place in Ireland where it is so indorsed, by apprehending the person against whom such warrant may be granted, and to convey him by the most direct way into England or Scotland respectively, and before a justice of peace of the county or stewartry in England or Scotland living near the place, and in the county where he shall arrive and land; which justice of peace shall proceed with regard to such person, as if such person had been legally apprehended in the said county or stewartry. By s. 5. the expense of removing prisoners to any place in England, Scotland, and Ireland, shall be repaid to the person defraying the same, by the treasurer of the county in England or Ireland respectively, or by the sheriff, or steward-depute or substitute of the county or stewartry in Scotland in which the crime was committed; the amount of such expense being previously ascertained, by an account thereof verified upon oath before 2 justices of peace of such county or stewartry, and allowed and signed by them; and such trea-

s. 4.

And vice versa,

s. 5.

Expenses of removing prisoners how defrayed.

s. 6.

Duty of treasurers of counties in respect thereto.

45 Geo. 3. c. 92.
U. K.

*Provision for
bailing offenders
apprehended
under 13 Geo. 3.
c. 31. and
44 Geo. 3. c. 92.*

surer, &c. shall be allowed such payments in their accounts. And by s. 6. the treasurers of the several counties in Ireland, who have paid any such expenses, shall lay the said account, together with the allowance of the same so signed as aforesaid, before the grand juries of their respective counties, at the assizes holden for such counties next after such expenses shall be paid, or at any subsequent assizes; and such grand juries shall present a sum equal to such expenses, to be raised from

the county at large, for reimbursing such treasurers.

The 45 Geo. 3. c. 92. U. K. recites, that by the 13 Geo. 3. c. 31. and 44 Geo. 3. c. 92. *supra*, no provision

was made for admitting such persons to bail, who may

be so apprehended for offences which by law are bail-

able; and therefore enacts, that in case any person shall

be apprehended in one of the parts of the united king-

dom for an offence committed, or charged to be com-

mitted, in either of the other parts, under any warrant

indorsed in such manner as is in that respect provided by

said recited acts, such person shall be taken before the

judge or justice who indorsed the said warrant, or before

some other justice of the county, stewardry, city, li-

berty, town or place where the same was indorsed; and

in case the offence be bailable in law, and such offender

shall be willing and ready to give bail for his appear-

ance according to the exigence of the warrant, such

judge, &c. by whom such warrant was indorsed, or be-

fore whom such offender shall be brought, shall and

may proceed with such offender, and take bail for him,

according to the exigence of the warrant, in the same

manner as the judge, &c. who originally issued the same,

might have done; and such judge, &c. so taking bail,

shall take the recognizance or bail bond of the offender,

and of his bail, in duplicate, and shall deliver one of

such duplicates to the constable, or other officer or per-

son so apprehending such offender, who shall deliver,

(or cause, &c.) such recognizance, &c. to the clerk of

the crown, or clerk of the peace, or other proper officer

for receiving the same, belonging to the court in which

by such recognizance, &c. such offender shall be bound

to

to appear; and such recognizance, &c. shall be as valid as if the same had been entered into, taken, or acknowledged, before a judge or justice of peace of the county, &c. where the offence was committed; and the said judge, &c. so taking bail, shall transmit the other of said duplicates to the court of exchequer of such part of the united kingdom in which such bail shall be taken, there to be kept of record; and it shall be lawful for the court in which any person so bound to appear shall forfeit his said recognizance, &c. to transmit a certificate testifying the forfeiture thereof under the seal of the court, or under the hand and seal of one of the judges or justices of the same, to the court of exchequer in that part of the united kingdom in which such recognizance, &c. shall have been taken; and it shall be lawful for the court of Exc. to proceed upon such certificate to levy the sum so forfeited, in the same manner in which they may proceed upon any recognizance, &c. taken and forfeited within the same part of the united kingdom, and estreated into said court: Provided that if such offence be not bailable in law, or such offender shall not give bail for his appearance, according to the exigence of such warrant, the said judge, &c. before whom such offender shall be brought, shall remand him to the custody of the constable, or other officer or person who shall have apprehended such offender; and such constable, &c. shall convey such offender into that part of the united kingdom wherein the offence was committed, by such ways and means as are provided by said recited acts. And whereas it may happen by reason of the difference in the law prevailing in the different parts of the united kingdom, that the judge or justice before whom any offender shall be brought, under such warrant so indorsed, may not know whether the offence mentioned in such warrant be or be not bailable; this statute enacts (s. 2.) that in case any person suing out such warrant shall shew, by affidavit or otherwise, to the satisfaction of the judge, &c. granting such warrant, that it may be necessary to execute such warrant in a part of the united kingdom different from that in which

s. 2.

*Justices may
bail, if words
"not bailable"
not indorsed on
warrant.*

such

such warrant is issued, and it shall appear also to the judge, &c. granting such warrant, that it is granted for an offence for which it would not be lawful for any judge, &c. before whom such offender might be brought, by reason of the indorsement of such warrant as directed by the said recited acts, to admit such offender to bail, such judge, &c. granting such warrant shall, upon the face of such warrant, write the words, "notailable;" and in all cases in which such words shall not have been so written, it shall be lawful for the judge, &c. before whom any offender may be brought under such warrant so indorsed, to admit such offender to bail. By s. 5. it shall not be lawful for any judge or justice to indorse by virtue of either of the said recited acts, or this act, any warrant, unless the same shall appear to have issued, if in England or Ireland, upon some indictment found or information filed, or, if in Scotland, upon some libel or criminal letters raised and passed under the signet of the court of justiciary, against the person named in such warrant, or unless the same shall appear to have issued in respect of some capital crime or felony mentioned in such warrant. And by s. 6. in all cases in which any warrant or certificate shall, by virtue of the said recited acts, or this act, be required to be acted upon in any part of the united kingdom, other than that in which the same was originally issued, it shall not be lawful for any court, or any judge or justice, to proceed to enforce or act upon the same, until it shall be proved upon oath to such court, &c. that the seal, signet, and signature upon the same, are the seal, &c. of the court, &c. whose seal, &c. the same shall purport to be.

s. 5.

*Proviso as to
indorsing
warrants.*

s. 6.

*Warrants, &c.
not acted upon
until seal, &c.
authenticated.*

§. 2.

*All persons to
assist in arrest-
ing felons.*

*3 Edw. 1. c. 9.
E. & I.*

II. Next as to arrest by officers and other persons without warrant. The 3 Edw. 1. c. 9. E. & I. enacts, that all shall be ready and apparelled at the summons of sheriffs, and at the cry of the country, to pursue and arrest felons, as well within franchise as without; and they that will not so do, and thereof be attainted, shall make a grievous fine to the king: and if default be found in the lord of the franchise, the king shall take the

the same franchise to himself; and if default be in the bailiff, he shall have one year's imprisonment, and shall make a grievous fine; and if he have not whereof, he shall have imprisonment of 2 years. And by the 13 Edw. 1. st. 2. c. 1. E. & I. proclamation shall be made in all counties, hundreds, markets, fairs, and other places where great resort of people is, that immediately upon robberies and felonies committed, fresh suit be made from town to town, and from country to country. And by this statute (c. 2.) inquests shall be made in towns, and after in the hundred, and in the franchises and in the county, and some time in two, three, or four counties, where felonies be committed in the marches of shires, so that the offenders be attainted; and if the country do not answer for such misdoers, the people dwelling in the country shall answer for the robberies, and for the damages, so that the whole hundred where the robbery happeneth, with the franchises, shall answer for the robberies; and if the robbery be done in the division of 2 hundreds, both hundreds with the franchises shall answer it; and after the felony done, the country shall have no longer than 40 days to agree for the robbery and trespass, or else they shall answer for the bodies of the offenders. And these provisions are also contained in the 28 Edw. 3. c. 11. E. & I. And the 13 Edw. 1. st. 2. c. 6. E. & I. further enacts, that the constables shall present before justices assigned, such defaults as they shall have found in the country about fresh suits, &c. and the justices assigned shall present the same at every parliament to the king, and the king shall provide remedy. This statute of Wynton 13 Edw. 1. st. 2. is confirmed by the 28 Edw. 1. st. 3. c. 17. E. & I. which enacts, that the same shall be sent into every county, to be read and published 4 times in the year, and kept as strictly as the two Great Charters, upon the pains therein limited. And by the 7 Ric. 2. c. 6. E. & I. every sheriff shall be bound in proper person to make proclamation of the statute of Wynton, 4 times in the year, in every hundred of his bailiwick, and by his bailiffs in every market-town, as well within liberties

13 Edw. 1. st. 2.
c. 1. E. & I.

Fresh suit to be made.

c. 2.

The hundred shall answer for robberies.

28 Edw. 3. c. 11.
E. & I.

13 Edw. 1. st. 2.
c. 6. E. & I.

Constables to present to justices defaults in making fresh suit.

28 Edw. 1. st. 3.
c. 17. E. & I.

Confirmation of
13 Edw. 1.
supra.

7 Ric. 2. c. 6.
E. & I.

The 13 Edw. 1. when and how proclaimed.

27 Eliz. c. 13.
Eng.

*Inhabitants of
hundred not
making fresh
suit, to pay half
the damages re-
covered against
hundred where
offence commit-
ted.*

How recovered.

s. 3.

*Suit not abated
by death or re-
moval of clerk of
peace.*

s. 5.

*Inhabitants of
hundred to con-
tribute rateably.*

† *Vide 22 Geo. 2.
c. 46. post
p. 1154.*

berties as without. The 27 Eliz. c. 13. Eng. further enacts, that the inhabitants and resiants of every hundred,* (with the franchises within the precinct thereof,) wherein negligence, fault, or defect of pursuit and fresh suit, after hue and cry made, shall be, shall answer the half of all such damages as shall be recovered against the said hundred, &c. in which any robbery or felony shall be committed: and such moiety shall be recovered by action of debt, &c. [†in any court of record at Westminster] by and in the name of the clerk of the peace of such county, without naming the christian name or surname of the clerk of the peace; which moiety shall be to the use of the inhabitants of the hundred where such robbery or felony shall be committed. And by s. 3. if any clerk of the peace shall commence any such suit, &c. and shall die or be removed out of office, before recovery or execution, yet no such action, &c. shall be thereby abated or discontinued, but it shall be lawful for the clerk of the peace next succeeding, to prosecute every such action, &c. for the causes aforesaid. By s. 5. after execution of damages by the party robbed, it shall be lawful (upon complaint made by the party charged) for 2 justices of peace (whereof one to be of the *quorum*) inhabiting within the hundred, or near to the same, where such execution shall be had, to assess the towns, parishes, villages, and hamlets, as well of the said hundred where such robbery shall be committed, as of the liberties within the same, towards an equal contribution to be made [‡for the relief of the inhabitants against whom the party robbed had his execution;] and after such taxation made, the constables or head borough of such town, &c. shall have power, within their limits, to assess every inhabitant and dweller in every such town, &c.; and if any inhabitant shall refuse to pay the assessment, it shall be lawful for the said constables and headboroughs to distrain every person so refusing

* "Or barony" added here in 10 & 11 Car. 1. c. 13. Ir. and throughout the act.

† "Any of the king's courts of record" in the 10 & 11 Car. 1. c. 13. Ir.

fusing, and the distress to sell, &c. By s. 6. the constables and headboroughs after they have collected their rates, shall, within 10 days, pay the same over to the justices, to the use of the inhabitants for whom such rates shall be made; which the justices shall pay over (upon request) to the inhabitants. By s. 7. the like assessment shall be had within every hundred where default of pursuit shall be, for the benefit of every inhabitant that shall have any money levied of them for the payment of the half of the money recovered against the hundred where any robbery shall be committed. Provided (s. 8.) that where any robbery is committed by two, or a greater number, and any one of the offenders shall be apprehended by pursuit made according to the said statutes, no hundred or franchise shall incur the penalty in the statutes, although the residue of the malefactors shall escape. And by s. 9. no person robbed shall charge any hundred, by virtue of said statutes, except he commence his suit within a year after such robbery committed. By s. 10. no hue and cry shall be allowed a lawful hue and cry or pursuit, except the same be made by horsemen and footmen. And by s. 11. no person that shall be robbed shall have any action, or take any benefit by virtue of the said statutes, except such person, with as much convenient speed as may be, give notice of the said felony or robbery so committed unto some of the inhabitants of some town, village, or hamlet, near to the place where such robbery shall be committed; nor shall have any action, except he shall, within 20 days before such action brought, be examined upon his corporal oath, to be taken before a justice of peace of the county where the robbery was committed, inhabiting within the hundred where the robbery was committed, or near unto the same, whether he do know the parties that committed said robbery, or any of them: And if upon such examination it be confessed that he do know the parties that committed said robbery, or any of them, then he so confessing shall enter into sufficient bond by recognizance, before the said justice before whom the said examination is had, effectually to prosecute said

s. 6.

Money levied to be paid over by constables, &c.

s. 7.

Like assessment in hundred not making fresh suit.

s. 8.

No hundred chargeable if one offender apprehended.

s. 9.

Limitation for suits.

s. 10.

Hue and cry how made.

s. 11.

*Notice required to be given by person robbed.**Recognizance to prosecute.*

8 Geo. 2. c. 16.
s. 1. Eng.

*Further notice
of robbery re-
quired.*

*Bond to high
constable for se-
curing costs.*

s. 2.

*Bond how dis-
posed of.*

said person or persons. And the 8 Geo. 2. c. 16. Eng. further enacts, that no person shall have any action against any hundred, or take any benefit of the statutes 13 Edw. 1. st 2. and 27 Eliz. c. 13. unless he shall, besides the notice already required, with as convenient speed as may be after any robbery on him committed, give notice thereof to one of the constables of the hundred, or to some constable, borsholder, headborough, or tithingman of some town, parish, village, hamlet, or tithing, near to the place wherein such robbery shall happen, or shall leave notice in writing at the dwelling-house of such constable, &c. describing in such notice to be so given or left, (so far as the nature of the case will admit) the felon or felons, and the time and place of the robbery; and also shall, within 20 days after the robbery, cause public notice to be given thereof in the London gazette, therein describing (so far as the case will admit) the felon or felons, and the time and place of the robbery, together with the goods and effects whereof he was robbed; and shall also, before such action be commenced, go before the chief clerk or secondary, or the filazer of the county wherein such robbery shall happen, or the clerk of the pleas of that court wherein such action is intended to be brought, or their respective deputies, or before the sheriff of the county, and enter into a bond to the high constable of the hundred, in the penal sum of £100. with 2 sureties to be approved of by such chief clerk, &c. with condition for securing to such high constable (who is required to enter an appearance, and defend such action) his costs, after the same shall be taxed by the proper officer, in case he shall be nonsuited, or discontinue his action, or judgment or verdict be given against him. And by s. 2. when such bond shall be entered into before the sheriff, such sheriff shall immediately certify the same in writing to the chief clerk or secondary in the king's bench, or his deputy, or to the filazer of the county wherein the robbery shall be committed, or his deputy, in case the action be intended to be brought in the common pleas, or if in the court of exchequer, to the clerk of the pleas, or his deputy; which certificate shall be delivered

livered by the party robbed to the said chief clerk or secondary, or his deputy, or to such filazer, &c. or clerk of the pleas, &c. before any process shall issue; and such chief clerk, &c. shall not take any greater fee for making such bond, than 5s. above the stamp duties; nor shall any sheriff take any greater fee for making, nor shall such chief clerk, &c. take any greater fee for filing such certificate, than 2s. 6d; and such chief clerk, &c. shall deliver over, *gratis*, (upon reasonable request) all such bonds to the high constables. But by s. 3. no hundred or franchise shall be chargeable, if one of the felons be apprehended within 40 days next after notice in the gazette aforesaid. By s. 4. no process for appearance in any action shall be served on any inhabitant, save only upon the high constable of the hundred, who shall cause public notice thereof to be given in one of the principal market towns within such hundred, on the next market-day after he shall be served with such process, or if there shall be no market town, then in some parish church within such hundred, immediately after divine service, on the Sunday next after being served with such process; and he shall enter an appearance in the said action, and defend the same on behalf of the inhabitants, as he shall be advised; and in case the plaintiff shall obtain judgment, then no process of execution shall be served on any inhabitant of the hundred or franchise, nor on the high constable; but the sheriff or his officer shall, upon receipt of the writ of execution, cause the same to be shewn, *gratis*, unto 2 justices of peace of the county, &c. (one to be of the *quorum*) and residing within the said hundred, or near unto the same, who shall thereupon, with all convenient speed, cause such assessment to be made and levied in such manner as is prescribed by the 27 Eliz. c. 13. *supra*; in which assessment there shall be included, over and above the costs and damages recovered by the plaintiff, all necessary expenses which any high constable hath been at, in having defended such action, claim being made thereto by such high constable before the said justices, upon due notice being given to him by the said justices for that purpose; and the money so levied

s. 3.

No hundred
chargeable if
felon apprehend-
ed in 40 days.

s. 4.

Process in actions
against hundred
how served.

Execution how
executed.

levied shall be paid over (by such officers as by the 27 Eliz. c. 13. are to levy the same) within 10 days after such collection, to the sheriff of the county, to the use of the plaintiff, for so much as the costs and damages by him recovered shall amount to, and to the use of the high constable for so much as his expenses shall amount to, of which the high constable shall give in an account, and make proof upon oath to the satisfaction of said justices, before any taxation shall be made for reimbursing such high constable, and shall have no further allowance towards paying an attorney, than what such attorney's bill shall be taxed at. By

s. 5.

*Sheriff to pay
money levied.*

s. 5. the money paid over to the sheriff, shall (upon reasonable request made) be by him delivered over to the several parties entitled to the same, without any deduction or fee. But by s. 6. no sheriff shall be called upon to

s. 6.

*Time allowed for
sheriff's return.*

make a return to any such execution, until after 60 days next after the day whereupon such shall be delivered to the sheriff; who shall indorse on the back thereof the day on which he received the same. By s. 7. if the

s. 7.

*If plaintiff in-
solvent, how
constable shall
be reimbursed
his expenses.*

plaintiff in any action to be brought against any hundred upon either of said statutes, shall be nonsuited, or discontinue, or shall have judgment [*on] demurrer

*'Or' in Ruff-
head's statutes.

given, or a verdict pass against him, it shall be lawful for any 2 justices of peace (such as herein-before mentioned) upon complaint to them, and upon an account given in by such high constable, and proof made upon oath to the satisfaction of said justices of such expenses necessarily laid out, to cause such assessment to be made and levied as is directed by the 27 Eliz. c. 13. *supra*, in order to reimburse such high constable all such charges as he shall have necessarily expended in defending such action, wherein such plaintiff shall have been nonsuited, &c. over and above the costs to be taxed; and in case it shall be made appear upon oath to said justices, that such plaintiff, and his sureties, are insolvent, so that such high constable can have no relief as to such taxed costs, it shall be lawful for such 2 justices of peace to cause an assessment to be made and levied in the manner directed by the 27 Eliz. c. 13. in order

order to reimburse such high constable such taxed costs, as by reason of such insolvency he shall not be able to recover from the plaintiff in such action, or his sureties.

By s. 8. the money assessed and levied for the reimbursement of the expenses sustained by any high constable in defence of any action brought against any hundred, in case of judgment given against the plaintiff, shall be paid within 10 days after such collection, unto the said justices, or one of them, to the use of such high constable to whom the said justices shall, upon request, deliver the same. By s. 9. any person who

s. 8.

*Money levied
when paid to
high constable.*

shall apprehend such felon within the time herein-before limited, whereby the hundred hath been actually indemnified from such action, shall, upon due proof thereof upon oath before such 2 justices as aforesaid, be entitled to the reward of £10. to be raised upon the hundred by assessment, and levied in the same manner as the other sums by this act appointed to be raised; and such sum of £10. shall be paid to such 2 justices, within 10 days after the same shall be levied, to the use of the person who shall be entitled to such reward; and such justices shall, upon reasonable request, pay over said sum in such shares as such justices shall think reasonable: Provided that such person so entitled to such reward, shall not be thereby rendered incapable to be a witness in any such action. By s. 10. the justices of peace by whom such assessments shall, in pursuance of the 27 Eliz. c. 13. and also of this act, be made, shall

s. 9.

Reward for apprehending felons in exoneration of hundred.

appoint some certain reasonable time within which such assessments shall be levied, which time shall not exceed

s. 10.

Default of officers in not paying money levied, how punished.

30 days; [*and if any officers who are to levy such taxations shall neglect to levy the same within such time as shall be appointed by the said justices,] or shall refuse or neglect to pay over the sums of money so levied to the said sheriff, and also to the said justices in such manner as the same in the cases herein-before mentioned are respectively directed to be paid, such officer shall forfeit double the sum appointed to be levied

* This clause is incorrectly printed in Ruffhead's statutes.

- Duty of constables, &c. in making fresh suit.* s. 11. levied. By s. 11. every constable, borsholder, headborough or tithingman, to whom notice shall be given, or at whose dwelling-house notice of any robbery shall be left, as aforesaid, and every constable of the hundred, and every constable, &c. of any town, parish, village, hamlet, or tithing, within the hundred, or franchises within the precinct thereof, wherein such robbery shall happen, as soon as the same shall come to his knowledge, either by notice from the party robbed, or from any other person to whom notice shall be given thereof pursuant to this statute, shall, with the utmost expedition, make and cause to be made fresh suit and hue and cry after the felons; and if any constable, &c. shall offend in the premises, &c. he shall forfeit £5.
- Penalties recovered with full costs, and how disposed of.* s. 12. By s. 12. every forfeiture shall be recovered with full costs, and shall enure, one moiety to the use of the king, and the other to such person as shall sue for the same within 6 months after such forfeiture incurred, by action of debt, &c. in any court of record at Westminster.
- Persons executing this law protected against actions.* s. 13. By s. 13. if any action, &c. shall be commenced against any person for any thing done in pursuance of this or either of the said recited acts, the defendant may plead the general issue, and shall recover full costs of nonsuit, discontinuance, verdict, or judgment.
- Limitation for actions.* s. 14. By s. 14. no such action, &c. shall be brought but within 6 months after the thing done. And lastly this act provides (s. 15.)
- Inhabitants competent witnesses.* s. 15. that in any action against any hundred, any person inhabiting within the hundred, or any franchise thereof, shall be admitted as a witness on behalf of the said hundred.
- Damages not to exceed £200. unless 2 at least robbed.* 22 Geo. 2. c. 24. Eng. By the 22 Geo. 2. c. 24. Eng. no persons shall recover against any inhabitants of any hundred, in any actions on any of the statutes of hue and cry, more than £200. unless the persons robbed, at the time of such robberies for which such actions shall be brought, be together in company, and be 2 at least, to attest the truth of their being so robbed. And it is a provision
- Executions against hundreds, how executed.* 22 Geo. 2. c. 46. s. 34. Eng. of the 22 Geo. 2. c. 46. Eng. that no writ of execution against the inhabitants of any hundred, on any judgment obtained by virtue of any act of parliament, shall be levied on any particular inhabitant of such hundred;

dred ; but the sheriff shall, on receipt of such writ, cause the same to be produced to 2 justices of peace as is directed by the 8 Geo. 2. c. 16. *supra*, and thereupon the said justices shall, as directed by said act, cause a taxation to be made and collected for paying the costs and damages recovered by the plaintiff, and all such necessary expenses as any inhabitant of such hundred shall have been at in defending such action ; the same being first proved upon oath, and the attorney's bill being first taxed ; and the sums so collected shall, within the time by the said act limited, be paid to the sheriff, and by him paid over to the persons entitled to the same, without deduction or fee. Independent of the general adoption of all English statutes concerning the common weal by the 10 Hen. 7. c. 22. Ir. it was previously enacted by the 10 Hen. 7. c. 11. Ir. that whensoever any murder should happen, or any robbery be done upon any of the king's subjects, hue and cry should be levied according to the statute of Winchester, on the pain contained in said statute. And by s. 3. the said statute of Winchester shall be duly executed as it hath been in old time past. And the 10 & 11 Car. 1. c. 13. Ir. has followed the 27 Eliz. c. 13. Eng. *supra*, with such deviations only as are noted in the margin. But the 8 Geo. 2. c. 6. Eng. 22 Geo. 2. c. 24. Eng. and 22 Geo. 2. c. 46. s. 34. Eng. have not been adopted in Ireland.

Several statutes have been abridged in the progress of this work, containing clauses providing rewards and immunities for such as apprehend felons, and bring them to justice, but the following remain to be here stated. By the 4 W. & M. c. 8. Eng. every person who shall apprehend any thief or robber, and prosecute him until he be convicted of any robbery committed in or upon any highway, passage, field, or open place, shall receive from the sheriff of the county where such robbery and conviction shall be, (without paying any fee for the same) for every such offender so convicted, £40. within one month after such conviction, and demand thereof made, by tendering a certificate to the said sheriff, under the hand of the judge before whom such felon

Persons apprehending thieves and robbers, how rewarded.

4 W. & M. c. 8. s. 2. Eng.

*Rewards ap-
portioned.*

*Death, &c. of
sheriff provided
for.*

*Default pun-
ished.*

s. 3.

*Executors, &c.
of person killed
in apprehending,
&c. robber, to
receive reward.*

s. 4.

*Sheriffs allowed
for such dis-
bursements.*

s. 5.

felon shall be convicted, certifying the conviction of such felon for a robbery done within the county of said sheriff, and also that such felon was taken by the person claiming the reward; and in case any dispute shall arise between the persons so apprehending any of the said thieves and robbers, touching their right to the reward, then the said judge, so certifying, shall by said certificate appoint the said reward to be paid amongst the parties claiming the same, in such proportions as to said judge shall seem just. And if any such sheriff shall die or be removed before the expiration of a month after such conviction, and demand made of said reward, (not being paid as aforesaid) then the next succeeding sheriff shall pay the same, within a month after demand and certificate brought as aforesaid. And any sheriff making default of payment shall forfeit to the person to whom such money is due as aforesaid, double the sum he ought to have paid, to be recovered by him, his executors or administrators, in any court of record at Westminster, by action of debt, &c. with treble costs. And by s. 3. in case any person shall be killed by any such robber, endeavouring to apprehend or in making pursuit after him, then the executors or administrators, or such person to whom the right of administration of the personal estate of the person so killed shall belong, upon certificate delivered under the hands and seals of the judge or justices of assize for the county where the fact was done, or the two next justices of peace, if such person be so killed, (which certificate the said judge or justices, upon sufficient proof before them made, shall give without fee) shall receive £40. from the sheriff of the county where the fact was done, and upon failure of payment thereof by the said sheriff, double the sum of £40. to be recovered against him with treble costs. By s. 4. all sheriffs, their executors, &c. upon producing such respective certificates, and the receipts for the money by them paid in pursuance of this act, shall be allowed upon their accounting, all monies (other than the double sum, and costs) which they shall disburse as aforesaid, without any fee. Provided (s. 5.) that if

if upon the account of any sheriff, there shall not be monies sufficient in the hands of such sheriff to reim-

*Or reimbursed
out of treasury.*

burse him such monies paid by virtue of this act, then such sheriff shall have the same repaid by the lord treasurer or commissioners of the treasury, out of the revenue of the crown, upon certificate from the clerk of the pipe. By s. 6. every person who shall so take,

s. 6.

apprehend, prosecute, or convict such robber, as a further reward, shall have the horse, furniture, and arms, money, or other goods of the said robber, that shall be taken with him; any right or title of their majesties,

*Person apprehending, &c.
robber, to have
his horse, &c.*

bodies corporate, or lord of any manor or franchise, or of him or them lending or letting the same to hire to any such robber, notwithstanding: Provided that this clause shall not take away the right of any person to such horses, &c. from whom the same were before feloniously stolen. And by s. 7. if any person, being out

s. 7.

of prison, shall commit any robbery, and afterward discover two or more persons who shall have committed any robbery, so as they shall be convicted, he shall be

*Discoverers of
accomplices pardoned.*

entitled to the king's pardon for all robberies which he shall have committed before such discovery made; which pardon shall be a good bar to any appeal brought for such robbery. The 6 Geo. 1. c. 23. Eng. further

*6 Geo. 1. c. 23.
s. 8. Eng.*

enacts, (s. 8.) that the streets of London and Westminster, and other cities, towns, and places, shall be deemed to be highways within the meaning of the 4 & 5

*Streets of cities,
&c. to be deemed
highways.*

W. & M. c. 8. Eng. and all certificates to be signed upon convictions for robbery, shall be signed and paid without any deduction, fee or reward, excepting any sum not exceeding 5s. for the writing and drawing thereof, and that as well where any offender shall plead guilty, as where he shall be convicted on evidence; and if any person, under pretence of signing or procuring to be signed any such certificate, or on account of payment of the money allowed therein, shall take any fee, &c. other than as aforesaid, he shall forfeit £40. to be recovered by action of debt, &c. in any court of record at Westminster; such forfeiture to the use of the person entitled to the certificate, on account of which such fee,

*Fee for signing
certificates limited.*

- Reward paid without deduction.* s. 10. &c. was taken. And by s. 10. the reward of £40. for the apprehending and convicting any person for burglary, shall be paid, without deduction, for every offender who shall be apprehended and convicted. The 10 & 11
- 10 & 11 W. 3. c. 23. Eng. W. 3. c. 23. Eng. also enacts, that every person who shall apprehend and take any person guilty of any of the felonies in s. 1. *ante* p. 997-8. before mentioned, and prosecute him until he be convicted, such apprehender, for his reward upon every such conviction, (without any fee to be paid for the same) shall have, forthwith after every such conviction, a certificate under the hand of the judge certifying such conviction, and also within what parish or place the felony was committed, and also that such felon was discovered and taken by the person so discovering or apprehending said felon; and in case any dispute shall arise between any of the persons so discovering, &c. any such felon, touching their right to the certificate, then the said judge, justices, or the major part of them, shall, by their certificate, appoint the said certificate into so many shares, to be divided amongst the persons therein concerned, as to the said judge, &c. shall seem just; which certificate shall be once assigned over, and no more; and the original proprietor of such certificate, or the assignee of the same, whosoever of them shall have the interest therein by virtue thereof, and of this act, shall be discharged of all parish and ward offices within the parish or ward wherein such felony shall be committed; which certificate shall be inrolled by the clerk of the peace of the county in which the same shall be granted, for which inrolment the clerk of the peace of the county or city in which the same shall be granted, shall have for his fee, 1s. Provided
- Such persons to be exempt from parish offices.* (s. 3.) that if any person having such certificate shall make use of said certificate to exempt him from any parish or ward office, such person so making use of said certificate, or any other person claiming any interest therein, shall not assign over the said certificate to any other person. And by s. 4. in case any person shall be
- Executors, &c. of person slain in apprehending house-breakers, &c. to have certificate.* s. 4. slain by any such house-breakers, horse-stealers, or other felon aforesaid, by endeavouring to apprehend or in making pursuit after them, then the executors, &c. of such
- Certificates not to be assigned.* s. 3. that if any person having such certificate shall make use of said certificate to exempt him from any parish or ward office, such person so making use of said certificate, or any other person claiming any interest therein, shall not assign over the said certificate to any other person.

such person so slain, to whom the right of administration of his personal estate shall belong, shall have the said certificate in manner aforesaid, without fee. And the 5 Ann. c. 31. Eng. further enacts, that every person who shall apprehend and take any person guilty of burglary, or the felonious breaking and entering of any house in the day-time, and prosecute him until he be convicted thereof, shall receive [*over and above the rewards given by the 10 & 11 W. 3. c. 23. *supra*, the sum of £40. within a month after such conviction, to be paid by the sheriff of the county where such felony, &c. shall be made and done,] without any fee for the same, to the person so taking, &c. said offender, he [†rendering] a certificate to the sheriff, under the hand of the judges or justices before whom such felon shall be so convicted, certifying the conviction of such felon for said offence, and in what parish the same was committed, and also that such felon was taken by the person claiming the said reward; and in case any dispute shall arise between the persons so apprehending any the said felons, touching their right to the said reward, then the judge, &c. so certifying as aforesaid, shall by their certificate appoint the said reward to be paid amongst the parties claiming the same, in such proportions as to such judge, &c. shall seem just; and if any such sheriff shall die or be removed before the expiration of a [‡month] after such conviction, and demand made of the said reward, (not being paid as aforesaid,) then the next succeeding [§sheriff] shall pay the same, within a month after demand, and certificate brought as aforesaid; and if default of payment of the said sum of money shall be made by any [§sheriff,] such [§sheriff] so making default shall forfeit to the person to whom such money is due, double the sum he ought to have paid, to be recovered by him, his executors, &c. in any court of record at [||Westminster,] by action of debt, &c. with treble costs. And by s. 2. in case any watchman or other person shall be killed by any such burglar or house-breaker, in endeavouring

5 Ann. c. 31.
s. 1. Eng.

Further reward
for apprehending
burglars, &c.

† “Tendering”
in 8 Ann. c. 8.
Ir.

Reward appointed.

‡ “21 days” in
8 Ann. c. 8.
Ir.

Death, &c. of
sheriff provided
for.

|| “Dublin” in
8 Ann. c. 8.
Ir.

s. 2.

4 F 2

* Instead of the words within the crotchets, the words of the 8 Ann. c. 8. Ir. here are “£5. within 21 days after such conviction, to be paid by the collector of the district.”

§ “Collector” in 8 Ann. c. 8. Ir.

*Executors, &c.
of person slain
in apprehending
burglar, to re-
ceive reward.*

deavouring to apprehend, or in making pursuit after him, then the executors, &c. or such person to whom the right of administration of the personal estate of such person so killed shall belong, upon certificate delivered under the hands and seals of the judge or justices of assize of the county where the fact was committed, or the 2 next justices of peace, of such person being so killed, (which certificate the judge or justices, upon sufficient proof before them made, shall give without fee,) shall receive [*£40. from the sheriff of the county] where the fact was committed; and upon failure of payment thereof by the said [†sheriff,] [‡double the sum of £40.] to be recovered against them, with treble costs. By s. 3. all [†sheriffs,] their executors, &c. upon producing such certificates, and the receipts for the money paid by them in pursuance of this act, shall be allowed upon their accounts, all monies other than [§double the sum,] and treble costs of suit which they shall disburse as aforesaid; and if upon account of any [†sheriff,] there shall not be money sufficient in the hands of such sheriff to reimburse him such monies paid by him, then the [†sheriff] shall have the same repaid by the [||lord treasurer, or commissioners of the treasury,] out of the revenue of the crown, upon certificate from the [¶clerk of the pipe.] And by s. 4. if any person being out of prison shall commit any burglary or felony, and afterwards discover 2 or more persons who shall have committed any such burglaries, &c. so as 2 of the persons so discovered shall be convicted thereof, such discoverer shall have the like reward and allowance of [**£40.] hereby promised to the person who shall apprehend and convict house-breakers, and all other advantages given to such taker and prosecutor, and shall also

s. 3.

*Sheriffs, &c.
allowed such
disbursements.*

s. 4.

*Discoverers of
accomplices re-
warded and par-
doned.*

** “£5” in
8 Ann. c. 8.
Ir.

* “£20. from the collector of the district” in 8 Ann. c. 8. Ir.

† “Collector” in 8 Ann. c. 8. Ir.

‡ “The sum of £40.” in 8 Ann. c. 8. Ir.

§ “Such penalties as he shall incur through his own default” in 8 Ann. c. 8. Ir.

|| “Vice treasurer or his deputy” in 8 Ann. c. 8.

¶ “Commissioners of the revenue” in 8 Ann. c. 8. Ir.

also be entitled to the king's pardon for all burglaries, robberies, and felonies, (except murder and treason) by him committed at any time before such discovery made; which pardon shall be a good bar to any appeal brought for such burglary, &c. Provided (s. 7.) that the judge or justices before whom such felons and house-breakers shall be convicted, shall determine and settle the rights and shares of such persons who by this act shall be entitled to the certificate herein directed to be given, and shall also, (being thereunto required) make out and deliver the said certificate, [*without fee,] to such person entitled thereto, before the end of such assizes or sessions wherein such conviction shall be had. The 3 Geo. 1. c. 15. s. 4. Eng. recites the 4 & 5 W. & M. c. 8. and 5 Ann c. 31. *supra*, as also the 6 & 7 W. 3. c. 17. Eng. *ante* p. 487. and (because sheriffs were kept for a long time out of the money so disbursed for the rewards aforesaid) enacts, that no sheriff shall be obliged to charge in his accounts any money to be paid for the rewards in said act mentioned, but may immediately apply to the lord treasurer or commissioners of the treasury, who, upon inspecting a due certificate of the conviction of such offender, for which such reward shall be paid by virtue of any of said acts, together with the receipts of the parties entitled to receive the same, shall forthwith repay such sheriff all monies so disbursed, without fee. The 8 Ann. c. 8. Ir. has followed the 5 Ann. c. 31. Eng. with such deviations as are noted in the margin, but the other statutes above mentioned have not been adopted in Ireland.

s. 7.

Judges to make out certificate, &c. before the end of the assizes, &c.

3 Geo. 1. c. 15. s. 4. Eng.

Sheriff's immediately reimbursed by treasury.

8 Ann. c. 8. Ir.

* The person making out such certificate to be entitled to 1s. by the 8 Ann. c. 8. Ir.

CHAP. XIX.

Of Commitment and Bail.

*What persons
shall not be
bailable.*

3 Edw. 1. c. 15.
E. & I.

*What offenders
may be bailed.*

FOR as much as sheriffs and others have let out of prison by replevin such as were not replevisable; and have kept in prison such as were replevisable; and for as much as before this time it was not determined which persons were replevisable, and which not, but only those that were taken for the death of man, or by the commandment of the king, or of his justices, or for the forest; the 3 Edw. 1. c. 15 E. & I. provides, that such prisoners as before were outlawed, and they which have abjured the realm, provors, and such as be taken with the mainour, and those which have broken the king's prison, thieves openly defamed and known, and such as be appealed by provors, so long as the provors be living, if they be not of good fame, and such as be taken for house-burning feloniously done, or for false money, or for counterfeiting the king's seal, or persons excommunicate taken at the request of the bishop, or for manifest offences, or for treason touching the king himself, shall be in no wise replevisable by the common writ, nor without writ: But such as be indicted of larceny, by inquests taken before sheriffs or bailiffs by their office, or of light suspicion, or for petit larceny that amounteth not above the value of 12*d.* (if they were not guilty of some other larceny aforetime), or guilty of receipt of felons, or of commandment, or force, or aid in felony done, or guilty of some other trespass for which one ought not to lose life nor member, and a man appealed by a provor after the death of the provor, (if he be no common thief nor defamed,) shall be let out by sufficient

sufficient surety whereof the sheriff will be answerable, and that without giving ought of their goods. And if the sheriff, or any other, let any go at large by surety, Penalty for default of sheriffs, &c. that is not replevisable, if he be sheriff or constable, or any other bailiff of fee, which hath keeping of prisons, and thereof be attainted, he shall lose his fee and office for ever: And if the under-sheriff, constable, or bailiff of such as have fee for the keeping of prisons, do it contrary to the will of his lord, or any other bailiff being not of fee, they shall have 3 years imprisonment, and make fine at the king's pleasure. And if any withhold prisoners replevisable, after they have offered sufficient surety, he shall pay a grievous amercement to the king; and if he take any reward for the deliverance of such, he shall pay double to the prisoner, and be in the mercy of the king. The 23 Hen. 6. c. 9. E. & I. further provides, Penalty for corruptly refusing or accepting bail. that sheriffs, and all other officers and ministers, shall let out of prison all persons by them arrested, [by force of any writ, bill, or warrant in any action personal,] or by cause of indictment of trespass, upon reasonable sureties of sufficient persons, having sufficient within the county where such persons be so let to bail, to keep their days in such place as the said writs, &c. shall require. Such persons which be in ward by condemnation, execution, *capias utlagatum* or *excommunicatum*, surety of the peace, and all such persons which shall be committed to ward by special commandment of any justice, and vagabonds refusing to serve according to the form of the statute of labourers, only except. And the 1 & 2 Ph. & M. c. 13. Eng. further enacts, that no justice of peace shall let to bail or mainprise any person which be forbidden to be replevied or bailed by the 3 Edw. 1. c. 15. *supra*. Confirmation of 3 Edw. 1. c. 15. s. 3. And by s. 3. any person arrested for manslaughter or felony, or suspicion thereof, beingailable by law, shall not be let to bail or mainprise by any justices of peace, if it be not in open sessions, except it be by 2 justices at the least, whereof one to be of the *quorum*, and the same justices to be present together at the time of such bailment, &c. which bailment, &c. they

Sheriffs, &c. in what cases to admit persons to bail.

1 & 2 Ph. & M. c. 13. s. 2. Eng.

Persons arrested for manslaughter or felony, how bailed

s. 4.

Justices to put
in writing exa-
mination and
information.

Recognizance to
prosecute.

s. 6.

Proviso as to
London, &c.

2 & 3 Ph. & M.
c. 10. Eng.

they shall certify in writing subscribed with their own hands, at the next general gaol-delivery to be holden within the county where the said person shall be arrested or suspected. By s. 4. the said justices, or one of them being of the *quorum*, when such prisoner is brought before them for any manslaughter or felony, before any bailment, &c. shall take the examination of the said prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing before they make the said bailment; which examination, together with the bailment, the said justices shall certify at the next general gaol delivery to be holden within the limits of their commission. And the clause of this act which requires coroners, as well as justices of peace, to bind by recognizance or obligation such as declare any thing material to prove the murder, manslaughter, offence or felony, to appear at the next gaol delivery to give evidence, has been already stated, vol. 1. p. 238. [*But this act provides (s. 6.) that justices of peace and coroners within the city of London, and county of Middlesex, and in other cities, boroughs and towns corporate, within England and Wales, shall, within their several jurisdictions, have authority to let to bail felons and prisoners, in such manner as they have been heretofore accustomed; and also shall take examinations and bonds as aforesaid, upon every bailment by them to be made; and shall certify such bailments, &c. at the next gaol delivery to be holden within the shire, city, borough, or town, where their several jurisdictions extend, upon like pain as is limited in this act.] But for as much as the 1 & 2 Ph. & M. c. 13. *supra*, doth not extend to such prisoners as shall be brought before any justice of peace for manslaughter or felony, and by such justice shall be committed to ward for the suspicion of such manslaughter or felony, and not bailed; the 2 & 3 Ph. & M. c. 10. Eng. enacts, that such justice before whom any person

* This clause is not in the 10 Car. 1. st. 2. c. 18. Ir.

person shall be brought for *manslaughter or felony, or for suspicion thereof, before he shall commit or send such prisoner to ward, shall take the examination of such prisoner, and information of those that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing within 2 days after the said examination; and the same shall certify in such manner, and at such time, as if such prisoner had been bailed or let to mainprise, upon such pain as is limited [†in the 1 & 2 Ph. & M. c. 13.] for not taking or not certifying such examinations. And the said justices shall have authority by this act, to bind all such by recognizance or obligation, as do declare any thing material to prove the said manslaughter or felony against such prisoner as shall be so committed to ward, to appear at the next general gaol-delivery to be holden within the county, &c. where the trial of the said *man-slaughter, &c. shall be, then and there to give evidence against the party; and the said justices shall certify the said bonds taken before them, in like manner as they ought to certify the bonds [‡mentioned in the said former act, upon pain in the former act mentioned for not certifying such bonds.] The 10 Car. 1. st. 2. c. 18. Ir. has incorporated the 1 & 2 Ph. & M. c. 13. and 2 & 3 Ph. & M. c. 10. with such variation only as is noted in the margin.

*Examination
and information
to be also taken
though party
not bailed.*

*Recognizance to
prosecute.*

*10 Car. 1. st. 2.
c. 18. Ir.*

The provisions of the Bill of Rights 1 W. & M. st. 2. c. 1. Eng. and of the *Habeas Corpus* Act 31 Car. 2. c. 2. Eng. have been already stated, vol. 1. chap. 1. and *ante* p. 102, &c.

To prevent persons being aggrieved by being arrested under false suggestions and accusations; the 28 Hen. 6. c. 2. Ir. provides, that if any accusations be made to the chief governor of this land, or to other officers, within franchise or without, he that maketh the accusation

*Security re-
quired from in-
formants.*

*28 Hen. 6. c. 2.
Ir.*

* "Treason and murder," here added in 10 Car. 1. st. 2. c. 18. Ir.

† "In this act" in 10 Car 1. st. 2. c. 18. Ir.

‡ Instead of the words within the crotchets, the words of the 10 Car. 1. st. 2. c. 18. Ir. here are, "where the prisoner is bailable, and let to bail, &c. upon such pain as in this statute is formerly mentioned for not certifying such bonds concerning such prisoners as shall be let to bail, &c."

accusation shall find sufficient surety for the damages of him that is accused, if it shall be adjudged that the suggestion or accusation be not true; and also that he that is so arrested, may go by surety or by bail, as law will, till the matter shall be determined. And if it be a matter touching treason, felony, or trespass, to be remitted to the king's bench; if it be a matter of conscience, to the chancery; if it be a matter within franchise, to be remitted to the seneschal of the liberty; and if it be for debt, to the king's common-place. And the party that is grieved may have suit by writ or bill of false imprisonment, against him that maketh suggestion or accusation, if the suggestion, &c. be not true. Saving the king's prerogative.

CHAP. XX.

Of the several Modes of Prosecution.

§. 1. **FIRST** with respect to indictments: Several of the statutes, *ante* p. 232-3. which relate to the description of jurors proper to be returned for the trial of civil actions, concern also grand juries to be returned in criminal prosecutions; and are therefore to be here referred to. And the 11 Hen. 4. c. 9. E. & I. seems to be proper for this place, which statute recites, that of late inquests were taken at Westminster, of persons named to the justices, without due return of the sheriff, of which some were outlawed before the said justices of record, and some fled to sanctuary for treason, and some for felony, by whom as well many offenders were indicted, as other liege people not guilty, by conspiracy, &c. for their special advantage and lucre; and therefore enacts,

*Indictments
found by grand
jurors outlawed,
&c. void.
11 Hen. 4. c. 9.
E. & I.*

enacts, that such indictments so made, with all their dependencies, shall be void; and no indictment shall be made by such persons, but by inquest of the king's lawful liege people, returned by the sheriffs, or bailiffs of franchise, without any nomination to them previously made by any person of the names which should be impanelled, except by the officers of the sheriffs, &c. sworn and known, and other officers to whom it pertaineth to make the same. And any indictment otherwise made shall be void.

With relation to the rule of law which requires indictments to be laid in the county where the offence shall be committed; the 2 & 3 Edw. 6. c. 24. Eng. enacts, that where any person shall be feloniously stricken or poisoned in one county, and die of the same stroke or poisoning in another county, then an indictment thereof found by jurors of the county where the death shall happen, (whether it shall be found before the coroner upon the sight of such dead body, or before the justices of peace, or other justices or commissioners which shall have authority to inquire of such offences,) shall be as effectual, as if the stroke or poisoning had been committed in the same county. And by s. 3. the justices of gaol delivery, and *oyer and terminer*, in the county where such indictment shall be taken, and also the justices of the king's bench after such indictment shall be removed before them, may proceed upon the same in all points as if such felonious stroke and death, or poisoning and death, had grown all in one county: And such party to whom appeal of murder shall be given, may sue appeal of murder in the same county where the party so feloniously stricken or poisoned shall die, as well against the principal, as against every accessory, in whatsoever county or place the accessory shall be guilty; and the justices before whom such appeal shall be commenced, within the year and day, &c. shall proceed against every accessory in the same county where such appeal shall be so taken. And by s. 4. where any murder or felony shall be committed in one county, and another shall be accessory in any other

Where stroke or poisoning in one county, and death in another, indictment where laid.

2 & 3 Edw. 6. c. 24. s. 2. Eng.

s. 3.

Appeal of murder may be also sued in county where death shall be.

s. 4.

*Accessory may
be indicted in
different county
from principal.*

*Certificate re-
quired in such
case.*

*2 Geo. 2. c. 21.
Eng.*

*Where stroke,
&c. out of Eng-
land, and death
in England, or
vice versa,
indictment how
laid.*

other county, then an indictment found against such accessory in the county where such offence of accessory shall be committed, shall be as effectual as if the principal offence had been committed within the same county: And the justices of gaol delivery, or *oyer and terminer*, or 2 of them, of such county where the offence of accessory shall be committed, shall write to the *custos rotulorum* or keeper of the records where such principal shall be attainted or convicted, to certify whether such principal be attainted, convicted, or otherwise discharged of such principal felony, who upon such writing shall make certificate under his seal, whether such principal be attainted, &c. or discharged; and the justices of gaol delivery, &c. shall proceed upon such accessory, in such manner as if both the principal offence and accessory had been committed in the county where the offence of accessory was committed. And the

2 Geo. 2. c. 21. Eng. further enacts, that where any person shall be feloniously stricken or poisoned upon the sea, or at any place out of England, and shall die of the same stroke or poisoning within England; or where any person shall be feloniously stricken, &c. at any place within England, and shall die of the same stroke, &c. upon the sea, or at any place out of England; in either of such cases, an indictment thereof found by the jurors of the county in England in which such death, stroke, or poisoning, shall happen, (whether it shall be found before the coroner upon the view of such dead body, or before the justices of peace, or other justices or commissioners who shall have authority to inquire of murders,) shall be as effectual as well against the principals in such murder, as the accessories, as if such felonious stroke and death, or poisoning and death, and the offence of such accessories, had happened in the county where such indictment shall be found; and the justices of gaol delivery and *oyer and terminer* in the same county where such indictment shall be found, and also any superior court, in case such indictment shall be removed into such superior court, shall proceed in all points, as well against the principals as the accessories, as if such felonious stroke and death, &c. had happened in

in the county where the indictment shall be found; and every such offender, as well principal as accessory, shall answer upon their arraignments, and have the like defences, advantages, and exceptions, (except challenges for the hundred,) and shall receive the like trial, judgment, order and execution, and suffer such pains and penalties, as if such felonious stroke and death, &c. had happened in the same county where such indictment shall be found. The 10 Car. 1. st. 2. c. 19. Ir. contains in substance the provisions both of the 2 & 3 Edw. 6. c. 24. and 2 Geo. 2. c. 21. *supra*. This Irish statute enacts, that where any person shall be traitorously or feloniously stricken, poisoned, or bewitched, in one county, and die of the same stroke, &c. in any other county within this kingdom, or in any other place out of this kingdom; or where any person shall be traitorously or feloniously stricken, &c. in any place out of this kingdom, and die of the same stroke, &c. in any county within this kingdom; then an indictment thereof found by jurors in the county where the death shall happen, if the death happen within any county within this kingdom, (whether it shall be found by the coroner upon the sight of such dead body, or before the justices of peace, or other justice or commissioner, which shall have authority to inquire of any treasons, murders, or manslaughters) shall be as effectual as if the stroke, &c. had been given, &c. in the county where the party shall die, or where such indictment shall be found; and in case such death shall happen in any other place out of this realm, then an indictment thereof found by the jurors of the county where such stroke, &c. shall be given, &c. before the justices, &c. which shall have authority to inquire of murders or manslaughter, and the trial and judgment thereupon had, shall be as effectual as if the death had happened in the county where such stroke, &c. was given, &c.: And the justices of gaol delivery, *oyer* and *terminer*, in the county where such indictment shall be taken, and also the justices of the king's bench, after such indictment shall be removed before them, shall proceed upon the same in all points, as if such felonious stroke, &c. had grown all in one and the same county.

10 Car. 1. st. 2.
c. 19. Ir.

Analogous statute in Ireland.

county. And such party to whom appeal of murder or man-slaughter shall be given, may sue his appeal in the county where the party so feloniously stricken, &c. shall die, in case he die within any county within this realm; and in case such death happen out of this kingdom, then in such county where such stroke, &c. was committed; and in both cases as well against the principal as the accessory, in whatsoever county or place within the king's dominions the accessory shall be guilty. And the justice before whom such appeal shall be sued, (within the year and day, &c.) shall proceed against every such accessory in the same county where such appeal shall be taken, as if such offence of accessory had been committed in such county. And by s. 2. where any murder or felony shall be committed in one county, and another person shall be accessory to such murder, &c. in another county within this realm, or in any other place out of this realm, then an indictment found against such accessory before the justices, &c. to inquire of felonies in the county where such offence of accessory shall be committed, in case the said offence of accessory be committed within this realm, shall be as effectual as if the principal offence had been committed within the county where the indictment against such accessory shall be found; and the justices of gaol delivery, or *oyer and terminer*, or 2 of them, of or in such county where the offence of such accessory shall be committed, upon suit to them made, shall write to the *custos rotulorum*, clerk of the crown, or other keeper of the records, where such principal shall be attainted or convicted, to certify whether such principal be attainted, convicted, or otherwise discharged of such principal felony, who shall make sufficient certificate thereof in writing under their seals to the said justices, &c.; and after they that so shall have the custody of such records, do certify that such principal is attainted, &c. or discharged, then the justices of gaol-delivery, &c. shall proceed upon such accessory, in the county where such accessory became accessory, as if the principal offence and accessory had been committed in the county where the offence of accessory

s. 2.

cessary was committed; and in case such offence of accessory shall be committed in any place out of this kingdom, then an indictment found against such accessory upon the circumstance of such matter, before the justices, &c. to inquire of treasons, murders, man-slaughters, or other felonies, in such county where the principal offender may receive his trial by force of this act, shall be as effectual as if the offence of accessory had been committed in the county where the indictment against such accessory shall be found. And by s. 3. every accessory, and other offender above expressed, shall answer upon their arraignments, and receive such trial, judgment, order and execution, and suffer such pains and penalties, as in other cases of treason, murder, manslaughter or other felonies.

s. 3.

By the 26 Hen. 8. c. 13. s. 4. Eng. if any of the king's subjects, denizens or others, commit or practise out of this realm, any offences which by this act, or heretofore, have been made treason, such treasons shall be inquired and presented by the oaths of 12 lawful men, upon good and probable evidence, in such county of this realm, and before such persons, as it shall please the king to appoint by commission under his great seal, in like manner as treasons committed within this realm; and upon every indictment and presentment found and made of such treasons, and certified into the king's bench, like process, &c. shall be made against the offenders, as if such treason had been found to be done within the realm; and all process of outlawry against offenders, in treason, being resident or inhabitant out of the realm at the time of the outlawry pronounced, shall be effectual as if such offenders had been resident within the realm. The 35 Hen. 8. c. 2. Eng. also enacts, that all offences made or declared, or to be made, &c. treasons, misprisions of treasons, or concealments of treasons, and committed by any person [*out of England,] shall be inquired

Treasons committed out of the realm where and how tried.

26 Hen. 8. c. 13. s. 4. Eng.

35 Hen. 8. c. 2. Eng.

Treason or misprision of treason out of England, where and how tried.

* "Out of this realm, and out of his majesty's dominions," in 33 Geo. 3. c. 35. Ir.

s. 2.
*Proviso as to
 peers.*
 5 & 6 Edw. 6.
 c. 11. Eng.
*Outlawry may
 be reversed
 within a year.*
 33 Hen. 8. c. 23.
 Eng.
*Commission to
 issue upon exa-
 mination before
 king's council.*

quired of, &c. before the king's justices of his bench, for pleas to be holden before himself, by lawful men of the shire where the bench shall sit, or else before such commissioners, and in such shire of the realm, as shall be assigned by the king's commission, and by good and lawful men of the same shire, in like manner as if such treasons, &c. had been committed within the same shire where they shall be inquired of, &c. Provided (s. 2.) that if any peers of the realm shall be indicted of any such treasons, &c. by authority of this act, they shall have their trial by their peers, as heretofore. The 5 & 6 Edw. 6. c. 11. Eng. contains also clauses similar to the 26 Hen. 8. c. 13. *supra*; but further provides, that if the party to be outlawed shall, within one year after the outlawry pronounced, or judgment given upon the said outlawry, yield himself unto the chief justice of England, and offer to traverse the indictment or appeal whereupon the said outlawry shall be pronounced, then he shall be received to the said traverse, and being thereupon found not guilty, he shall be acquitted. And the 33 Hen. 8. c. 23. Eng. further enacts, that if any person being examined before the king's council, or 3 of them, upon any manner of [*treason,] misprision of treason, or murder, do confess any such offence, or that the said council, or 3 of them, upon such examination, shall think any person so examined to be vehemently suspected of any treason, &c.; then, by the king's commandment, his majesty's commission of *oyer and terminer*, under the great seal, shall be made by the chancellor of England, to such persons, and into such shires or places, as shall be appointed by the king, for the speedy trial, conviction, or delivery of such offenders; which commissioners shall have power to inquire, &c. all such treasons, &c. within the shires and places limited by their commission, by such lawful persons as shall be returned before them by the sheriff or his minister, or any other having power to return writs and process

* This statute, so far as respects treason, seems to be repealed by the 1 & 2 Ph. & M. c. 10. Eng. which will be stated in another place.

cess for that purpose, in whatsoever other shire or place, within the king's dominions or without, such offences of treason, &c. were committed; and in such cases no challenge for the shire or hundred shall be allowed. Provided (s. 2.) that upon the trial of such treasons, &c. s. 2. Proviso as to challenge of jurors. the challenge to any juror for lack of freehold of the yearly value of 40s. shall be allowed as hath been accustomed. And by s. 3. if any peer shall be indicted s. 3. Proviso as to peers. for any such offence, by virtue of any such commission, he shall have his trial by his peers as heretofore. But the 43 Geo. 3. c. 113. G. B. recites, (s. 6.) that no provision is made by the 33 Hen. 8. c. 23. *supra*, for the trial of accessaries before the fact in murder, or for the trial of manslaughter, under any commission to be issued in pursuance of that act; and therefore enacts, (s. 6.) that all the authorities in the said recited act contained respecting the offence of murder, and the examination of any person upon any murders, by the king's council, or 3 of them, and the making and issuing of commissions of *oyer* and *terminer* for the trial, &c. of offenders, and the inquiry, &c. of all such murders therein mentioned, and all other clauses, &c. concerning the offence of murder, and the inquiring, &c. thereof, and the trial, conviction, or delivery of such offenders therein, as in said act are mentioned, shall be extended to the offence of procuring, directing, counselling, commanding, or otherwise becoming an accessory before the fact to any murder, and also to the offence of manslaughter, as if those offences had been expressly mentioned in the said recited act; and in case any offender shall, in pursuance of this or the said recited act, be indicted for murder, and upon such trial it shall appear that he is guilty of manslaughter, and of no greater offence, the jury may find him guilty of manslaughter only; or in case of doubt or difficulty may find a special verdict, upon which there shall be the like proceedings, judgment, and punishment, or execution, as if the offence had been committed within the body of any county within this realm, and such trial had been had, and such general or special verdict had been

found upon an indictment for murder found and tried according to the course of the common law. The 28 Hen. 8. c. 8. Ir. contains a clause precisely similar to the 26 Hen. 8. c. 13. s. 4. *supra*. And the 33 Geo. 3. c. 45. Ir. has followed the 35 Hen. 8. c. 2. *supra*, with such deviation only as is noted in the margin. But the law of Ireland contains no provisions corresponding to those of the 5 & 6 Edw. 6. c. 11. 33 Hen. 8. c. 23. or 43 Geo. 3. c. 113. s. 6. G. B. *supra*.

Felonies committed in Wales where tried.

26 Hen. 8. c. 6. s. 6. Eng.

34 & 35 Hen. 8. c. 26. s. 75. 6. Eng.

10 & 11 W. 3. c. 25. s. 13. Eng.

Capital crimes committed in Newfoundland, &c. where tried.

11 & 12 W. 3. c. 12. Eng.

Crimes committed by governors of colonies, &c. where and how tried.

The 26 Hen. 8. c. 6. Eng. (confirmed and explained by the 34 & 35 Hen. 8. c. 26. s. 75. 76.) provides, that the justices of gaol delivery, and of the peace, in the shires of England where the king's writ runneth, next adjoining to the place in Wales, where any counterfeit-ing, washing, clipping or minishing of coin current within the realm, or murder, shall be committed, or where any other felonies or accessaries shall be committed, shall have power, at their sessions of gaol delivery, to inquire by verdict of 12 men of the same shire next adjoining within England where the king's writ runneth, there to cause all such counterfeiters, &c. and accessaries, to be indicted according to the laws of this land. And the 10 & 11 W. 3. c. 25. Eng. may be here also briefly noticed, which provides, that all robberies, murders, and felonies, and all other capital crimes, which shall be committed in Newfoundland, or in any of the islands thereunto belonging, shall and may be inquired of, &c. in any shire or county of England, by virtue of the king's commission of *oyer* and *terminer*, and gaol delivery, according to the laws of this land. By the 11 & 12 W. 3. c. 12. Eng. if any governor, lieutenant governor, deputy governor, or commander in chief, of any plantation or colony within his majesty's dominions beyond the seas, shall be guilty of oppressing any of his majesty's subjects beyond the seas, within their respective governments or commands, or shall be guilty of any other crime or offence, contrary to the laws of this realm, or in force within their respective governments, &c. such offences shall be inquired of, &c. in the king's bench in England, or before such commissioners

sioners, and in such county of this realm, as shall be assigned by his majesty's commission, and by lawful men of the same county; and such punishments shall be inflicted on such offenders, as are usually inflicted for offences of like nature committed here in England. The 13 Geo. 3. c. 63. Eng. also provides (s. 39.) that if any governor general, president, or governor, or council, of any of the company's settlements in India, or the chief justice, or any of the judges of the supreme court of judicature, or of any other court in the said settlements, or any person now or heretofore employed by the said company, in any civil or military station, &c. or any of his majesty's subjects residing in India, shall be guilty of any crime, misdemeanor, or offence, committed against any of his majesty's subjects, or any of the inhabitants of India, within their respective jurisdictions, all such crimes, &c. may be inquired of, &c. in his majesty's court of king's bench; and such offenders (not having been before tried for the same offence in India) shall, on conviction, in such case as is not otherwise specially provided for by this act, be liable to such fine or corporal punishment as the said court shall think fit; and moreover shall be liable, at the discretion of the court, to be adjudged incapable of serving the said company, in any office civil or military; and such crimes, &c. may be alledged to be committed, and may be tried, in the county of Middlesex. And for the bringing to speedy and condign punishment, persons guilty of the crime of extortion, and other misdemeanors, committed in the East Indies by British subjects holding offices or employments there under the king, or under the said united company; the 24 Geo. 3. c. 25. Eng. provides (s. 64.) that it shall be lawful for the coroner and attorney of the king, in the court of king's bench, by rule of said court, to be obtained upon motion for that purpose, at the instance of any person, (and which rule the court is empowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to render it proper,) or for his majesty's attorney general, or for the court of directors or court of

13 Geo. 3. c. 63.
s. 39. Eng.

Offences in India triable in king's bench of England.

How laid in indictments.

24 Geo. 3. c. 25.
s. 64. Eng.

Misdemeanors committed by officers in India, tried by information in king's bench before commissioners.

proprietors of the said united company, to exhibit in said court an information against such person, for any such offence; whereupon the said court shall, at the instance of the prosecutor, cause the party against whom such information shall have been exhibited to be attached, and shall order him to stand committed to the Marshalsea, or tower of London, or gaol of Newgate, at the discretion of said court, until he shall be delivered by due course of law, or until he, together with 2 sufficient sureties, shall have entered into a recognizance to the king, in such sum, and with such condition for his appearance, and for satisfying the judgment to be pronounced upon such information, as to the court shall seem meet; and when the defendant shall have appeared and pleaded to the information, the chief justice or other justice of said court, shall, within 10 days, (unless any *mandamus* shall be granted for the examination of witnesses as herein-after provided, upon a motion to be made within a time to be limited by said court for that purpose) deliver the record of said information and plea to the lord chancellor, who shall thereupon issue a commission under the great seal, in manner herein provided.* And this act, as well as the 13 Geo. 3. c. 63. *supra*, provides for the examining witnesses by commission, and transmitting their depositions to the court. The 42 Geo. 3. c. 85. G. B. recites the 11 & 12 W. 3. c. 12. Eng. 13 Geo. 3. c. 63. Eng. and 24 Geo. 3. c. 25. Eng. *supra*, and enacts, that if any person who is, has been, or shall be employed by or in the service of the king, in any civil or military capacity out of Great Britain, or who holds, or did or shall hold any public station out of Great Britain, shall have committed, or shall commit any crime, misdemeanor, or offence in execution, or under colour, or in the exercise of such station, &c. such crime, &c. shall and may

Commission for
examination of
witnesses.

42 Geo. 3. c. 85.
G. B.

Offences com-
mitted out of
Great Britain
by persons hold-
ing any public
station, triable
at king's bench.

* The commissioners to execute such commissions are 3 judges, one from each of the courts at Westminster, 4 peers, and 6 members of the house of commons, who are to be appointed in the manner prescribed by s. 66. to 72. of this act.

may be inquired of, &c. in the king's bench in England, either upon an information exhibited by the attorney general, or upon an indictment found, in which information, &c. such crime, &c. may be laid to have been committed in the county of Middlesex; and all such offenders, and also all persons tried under any of the provisions of the 11 & 12 W. 3. *supra*, or this act, and not having been before tried for the same offence, &c. out of Great Britain, shall be liable to such punishment as may by any law now in force, or hereafter to be passed, be inflicted for any such crime, &c. committed in England, and shall also be liable, at the discretion of the king's bench, to be adjudged incapable of serving his majesty in any station, &c. civil or military, or of holding or exercising any public employment whatever. And by s. 2. in all cases of indictments or informations under this act, it shall be lawful for the king's bench, upon motion, and such notice thereof as to said court may appear sufficient, by or on behalf of the attorney general or other prosecutor, or of the defendant, to award, at the discretion of said court, a *mandamus* to any chief justice and other judges, or to any chief justice or other judge singly, of any court of judicature in the country or island, or near to the place where the crime, &c. shall be charged to have been committed, or to any governor or lieutenant governor, or other person, having chief authority in such country, &c. or to any other person residing there, as to said court may seem most expedient, for the purpose of obtaining and receiving proofs concerning the matter charged in such indictment, &c.; and the person to whom such writ shall be directed, shall hold a court, session, or meeting, with all convenient speed, for the examination of witnesses, and receiving other proofs concerning the matters charged, &c.; and in the mean time cause public notice to be given of the holding of said court, &c. and issue such summons or other process as may be requisite for the attendance of witnesses, and adjourn from time to time as occasion may require; and such examination shall be then and there publicly taken, *viva voce*,

Indictments here laid.

Punishment for such offences.

s. 2.

Commission for the examination of witnesses.

voce, in said court, &c. upon questions put by such prosecutor, defendant, or agent or person on behalf of the attorney general or other prosecutor, and defendant, respectively, if any such shall attend, and by the court or person to whom such writ shall be directed, upon the oaths of witnesses, and of skilful interpreters if necessary, administered according to the forms of their religions, and shall, by some person sworn for that purpose, be reduced into writing on parchment or paper, or into 2 or more writings, if required by the prosecutor or defendant; and such examination shall be sent to the king's bench closed up, and under the seal of the person before whom such examination shall have been taken; and the person taking such examination shall deliver the same to any person appointed by the king's bench to receive the same, or shall transmit the same in such manner as the king's bench shall direct; and all such examinations shall be delivered to one of the clerks of the king's bench, in the crown office of said court, for the custody thereof; and every clerk in the king's bench to whom any examination shall be delivered, shall administer an oath to the person delivering the same to him, in such form as said court shall direct; and such examination shall be allowed and read upon the trial of any such indictment or information, or any other subsequent proceeding relating thereto, and shall be deemed good evidence, &c. saving all just exceptions to such examinations when offered to be read; and all persons concerned shall be entitled to take copies of such examinations in the custody of such clerk in court, at their own costs. And by s. 3. it shall be lawful for the king's bench upon motion, and such notice as aforesaid, by or on behalf of the attorney general or other prosecutor, or defendant in such indictment, &c. to order an examination *de bene esse* of witnesses upon interrogatories, where the *viva voce* testimony of such witnesses cannot conveniently be had, to be taken before an examiner to be appointed by said court; and the depositions taken upon such interrogatories shall be admitted to be read upon the trial of such indictment, &c. or in any other subsequent proceeding relating thereto

s. 3.

*Examination de
bene esse.*

thereto, and shall be deemed sufficient evidence, saving all just exceptions to such depositions when the same shall be offered to be read. By s. 4. the person or persons to whom any such *mandamus* shall be directed, or order sent, shall administer all oaths required to be taken under this act, or necessary for the due execution of such writ or order, or any thing relating thereto, and examine upon oath all persons whom he shall find occasion to summon, or think fit to examine, touching all matters necessary for the due execution of such writ, &c.; and such person or persons to whom such writ, &c. shall be directed, shall have power to compel the appearance and giving evidence of any witness upon any such writ, &c. and to issue special summons or other process for that purpose, and may proceed thereupon by imprisonment of any person refusing to appear, &c. as any court of record may proceed against any person for a contempt of court. And by s. 5. in case any person, in the course of his examination upon oath under the 24 Geo. 3. c. 25. or this act, shall wilfully and corruptly give false evidence, he shall be liable to such pains and penalties as persons guilty of wilful and corrupt perjury are by any law then in force in the kingdom, island, or place, where such evidence shall have been given. None of the provisions of these statutes have been extended to Ireland.

s. 4.

Person to whom commission directed, to administer oaths, and compel appearance of witnesses.

s. 5.

Penalties of perjury.

By the 44 Geo. 3. c. 92. s. 7 & 8. U. K. which supersedes the 13 Geo. 3. c. 32. s. 4 & 5. Eng. if any person having stolen, or otherwise feloniously taken money, cattle, goods, or other effects, in any one of the parts of the united kingdom, shall afterwards have the same money, &c. or any part thereof, in his possession or custody, in any other part of the united kingdom, it shall be lawful to indict, try, and punish such person, for theft or larceny, in that part of the united kingdom where he shall so have such money, &c. And if any person in any one of the parts of the united kingdom, shall receive or have any cattle, goods, or other effects, stolen or feloniously taken in any other part of the united kingdom, knowing the same to have been stolen, &c. such person shall be liable to be indicted, &c. for such offence, in that part of the united kingdom where he shall

Persons guilty of larceny, or receiving stolen goods, in one part of the united kingdom, may be indicted, &c. in another.

44 Geo. 3. c. 92. s. 7 & 8. U. K.

shall so receive or have the said cattle, &c. But the 43
 43 Geo. 3. c. 113. s. 5. G. B. Geo. 3. c. 113. G. B. more generally provides, (s. 5.) that
Offences of ac- in all cases in which any person shall procure, direct,
cessaries before counsel, or command any other person to commit, or
the fact, where shall abet any other person in committing any felony, or
tried. shall in any wise become an accessory before the fact
 to any felony, whether such principal felony, or such
 procuring, &c. or becoming accessory, &c. be com-
 mitted within the body of any county within [*this realm,]
 or upon the high seas, the offence of the person so pro-
 curing, &c. such felony, or so becoming accessory
 before the fact thereto, shall and may be inquired of, &c.
 in case such principal felony shall have been committed
 within the body of any county within [*this realm,]
 by the course of the common law, either within the
 county wherein such principal felony shall have been
 committed, or within the county wherein the said
 offence in procuring, &c. or otherwise becoming acces-
 sary before the fact, shall have been committed; and in
 case the said principal felony shall have been commit-
 ted upon the high seas, then the said offence in pro-
 curing, &c. such felony, or of so becoming an accessory
 before the fact, shall and may be inquired of in such
 court, and in such manner, as by the [†28 Hen. 8. c. 15.
 Eng] is appointed for trying felonies done upon the
 high seas. Provided that no person who shall be once
 tried and acquitted, or convicted of any such offence,
 in procuring, &c. any felony, or of otherwise becoming
 an accessory before the fact to such felony, whether the
 trial of such person shall have been had according to the
 course of the common law, or according to the provisions
 of the [†28 Hen. 8. c. 15.] shall be liable to be again
 indicted, prosecuted, or tried, for the same offence, in
 any court or jurisdiction. The 43 Geo. 3. c. 79. I. con-
 tains a similar clause with relation to Ireland.

Proviso.

*Offences com-
 mitted within
 counties of cities,
 &c. may be in-
 dicted, &c. in
 adjoining coun-
 ties.*

38 Geo. 3. c. 52.
 Eng.

By the 38 Geo. 3. c. 52. Eng. it shall be lawful for
 any prosecutor to prefer his bill of indictment for any
 offence committed, or charged to be committed, within
 the county of any city or town corporate, to the jury
 of

† The 43 Geo. 3. c. 79. I. here refers to the 11. 12 & 13 Jac. 1. c. 3 Ir. and
 23 & 24 Geo. 3. c. 4. Ir. ante p. 1108.

of the county next adjoining to the county of such city, &c. sworn and charged to inquire for the king, for the body of such adjoining county, at any sessions of *oyer* and *terminer*, or general gaol delivery; and every such bill of indictment, found to be a true bill, shall be valid, as if the same had been found by a jury of the county of such city, &c. And by s. 3. if it shall appear to any court of *oyer* and *terminer*, &c. for the county of any city, &c. that any indictment found by any grand jury of the county of such city, &c. or any inquisition taken before the coroner of the county of such city, &c. or other franchise, is proper to be tried by a jury of any next adjoining county, it shall be lawful for said court of *oyer* and *terminer*, &c. at the prayer of any defendant, to order such indictment, &c. and the several recognizances, examinations, and depositions, relative to such indictments, &c. to be filed with the proper officer, to be by him kept amongst the records of the courts of *oyer* and *terminer*, &c. for such next adjoining county, and to cause the defendant to be removed, by *habeas corpus*, to the gaol of such adjoining county; which writ the said court shall issue, if such defendant be in the prison of such city, &c.; and, if he be not in such prison, commit such defendant to the gaol of such adjoining county; and to cause the prosecutors and witnesses against such defendant, to enter into recognizance to prosecute and give evidence at the sessions of *oyer* and *terminer*, and general gaol-delivery for such adjoining county; and the same proceedings and trial shall be had, and the same judgment shall be given, in such last-mentioned court of *oyer* and *terminer*, &c. as in cases of indictments, &c. for the like offences committed within such adjoining counties. By s. 4. any of the judges of the king's bench, or any of the justices of *oyer* and *terminer*, &c. for such adjoining county, may, on the application of such prosecutor, 10 days next before the holding of any sessions of *oyer* and *terminer*, &c. for such last mentioned county, by proper writs of *habeas corpus*, cause any person who may be in the custody of any sheriff, or of the keepers of any gaol or prison, charged with any offence committed within the county of such city

s. 3.

Indictments, &c. if found in cities, &c. may be removed to adjoining county.

s. 4.

Prisoners may be removed by habeas corpus from city, &c. to county.

city, &c. to be removed into the custody of the sheriff of such adjoining county, in order that he may be tried in such last-mentioned county, and by order under the hand of the said judges or justices of *oyer* and *terminer*, &c. direct the coroner of the county of such city, &c. to return to the next court of *oyer* and *terminer*, &c. to be holden for such adjoining county, any inquisition, examination, or deposition, taken touching the death of any person within the limits of his jurisdiction; and whenever, in pursuance of this act, any bill of indictment shall be found by such grand jury, against any person for any offence committed or charged to be committed within the county of any city, &c. it shall be lawful for the said courts of *oyer* and *terminer*, &c. to issue process for apprehending the person against whom such bill shall be found, if not in custody, and to compel the attendance of witnesses upon the trial of such indictments, in like manner as in cases of indictments found in any court of *oyer* and *terminer*, &c. for offences committed within such adjoining counties.

s. 5.

*Recognizance to
prosecute, or to
appear, &c.
when forfeited.*

By s. 5. every recognizance which shall be entered into for the prosecution of any person for any offence committed, &c. within the county of any city, &c. and every recognizance for the appearance as well of witnesses to give evidence upon any bill of indictment, &c. for such offence, as for the appearance of any person to answer the king concerning the same, shall be forfeited, if the prosecutor shall, 10 days previous to the holding of the next court of *oyer* and *terminer*, &c. in the next adjoining or other county, give notice to the person bound in such recognizance, &c. of the intention to prefer such indictment, or to remove such inquisition in or into the next adjoining or other county, and the party bound in such recognizance shall not appear, prosecute, or give or be ready to give evidence, at such court; but if the person bound in such recognizance, after notice as aforesaid, shall appear at such court of the next adjoining or other county, prosecute, give or be ready to give evidence on such indictment before the grand jury, and on the trial thereof, or on the trial of such inquisition, then the said recognizance shall be discharged as if the person

person bound in such recognizance had complied with the terms thereof. Provided (s. 6.) that in case the person who shall enter into such recognizance cannot be found, and such notice as aforesaid be left at his last place of abode, 10 days previous to the holding such sessions, as aforesaid, the same shall be as effectual as if the same were left with the person who shall enter into such recognizance; and no such recognizance shall be estreated or returned into the court of exchequer, until the next sessions of *oyer and terminer*, &c. to be holden for such adjoining county, in order that such recognizance may be discharged, in case the person who shall have entered into the same, shall have shewed to such court of *oyer and terminer*, &c. sufficient cause for discharging the same. By s. 7. every person before whom any such recognizances shall be entered into, or by whom any examination or deposition shall be taken, touching any such offence, shall return the same to the next court of *oyer and terminer*, &c. for such adjoining county, upon such prosecutor leaving at the dwelling-house or other place of abode of the person before whom such recognizance shall be entered into, &c. 10 days before the holding of any sessions of *oyer and terminer*, &c. for such adjoining or other county, notice in writing of his intention to prosecute such indictment, &c. at such last-mentioned sessions of *oyer and terminer*, &c. for any offence committed within the county of any city, &c.; and after the delivery of such notices it shall not be lawful for any person to prefer any bill of indictment, or to return any inquisition for any offence mentioned in the said recognizances, or any of them, at or to any sessions of *oyer and terminer*, &c. for the county of such city, &c. By s. 8. in all cases of indictments, and other proceedings, which may be tried before justices of *oyer and terminer*, &c. for any county, in pursuance of this act, it shall be lawful for such justices to order the expenses of the prosecution, and of the witnesses, and of the rewards payable in pursuance of several statutes on the conviction of offenders, to be paid by and to the same persons, and in the same manner, as the same would be payable if such indictment

s. 6.

If party entering into recognizance cannot be found, notice how served.

s. 7.

Recognizance, &c. to be returned to the next court of oyer and terminer, &c.

s. 8.

Expenses of prosecution, &c. ordered to be paid.

dictment

s. 9.

*Proviso as to
York, &c.*

dictment had been tried in the court of *oyer and terminer*, &c. of the county of such city, &c. By s. 9. for the purposes of this act the county of York shall be considered as the next adjoining county to the county of the town of Kingston upon Hull; and the county of Northumberland to the county of the town of Newcastle upon Tyne. And by s. 10. nothing in this act shall extend to the cities of London and Westminster, or the borough of Southwark, or the city or county of the city of Bristol, or the city or county of the city of Chester, or to the criminal jurisdiction of the city of Exeter and county of the said city, unless in cases of indictment removed into the king's bench by *certiorari* from any court of criminal jurisdiction within the city or county of the city of Exeter. By s. 11. nothing in this act shall take away the privileges granted to corporations by regular charters and grants, and immemorially enjoyed by them; and they shall not be obliged to attend as jurymen upon the trial of any [*cause] or indictment which may be removed from the limited jurisdiction to the county at large, nor upon the trial of any other [*cause] or indictment, which may be tried before the [*justices of assize,] *oyer and terminer*, &c. in the next adjoining county. And by s. 12. nothing in this act shall extend to enable any person to prefer any bill of indictment for any offence committed, &c. within the county of any city, &c. to the jury of such next adjoining county as aforesaid, or to remove any indictment or other criminal proceeding, except the person preferring such bill or applying for such removal, shall enter into a recognizance before the court where such bill shall be preferred, or the court or magistrate to whom such application shall be made, in the sum of £40. conditioned to pay the *extra* costs of prosecuting for such offence in such adjoining county; provided the court before whom the trial is had shall be of opinion that he ought to pay the same. To this act there is none corresponding in Ireland.

s. 10.

*Proviso as to
London, &c.*

s. 11.

*Proviso as to
persons specially
exempted from
serving on juries.*

* Vide p. 215.

s. 12.

*Recognizance
for paying extra
costs.**In indictments,
&c. additions
of defendants'
names, &c. to
be put.*

Next as to the form of indictments: The 1 Hen. 5. c. 5. E. & I. enacts, that in [every original writ of actions personal,] appeals, and indictments, and in which the
exigent

erigent shall be awarded, in the names of the defendants additions shall be made of their estate or degree, or mystery, and of the towns, or hamlets, or places, and counties, of which they were, or be, or in which they be or were conversant; and if by process upon the said [writs,] appeals, or indictments, in which the said addition be omitted, any outlawries be pronounced, they shall be void; and before the outlawries pronounced, the said writs and indictments shall be abated by the exception of the party, where, in the same, the addition be omitted. [Provided that though the said writs in actions personal be not according to the records and deeds, by the surplusage of the additions aforesaid, for that cause they shall not be abated; and the clerks of chancery under whose names such writs shall go forth written, shall not omit said additions upon pain to be punished, and to make a fine to the king, by the discretion of the chancellor.] And on the other hand the 4 Hen. 4. c. 2. E. & I. enacts, that the words *insidiatores viarum, et depopulatores agrorum*, shall not be used or put in indictments, arraignments, appeals, or other impeachments; nor by force of such words shall any clerk, or other of the king's people, be arraigned, &c. before any secular judge; but the justices may receive before them indictments, &c. containing the effect of said words, if any person of such felonies be indicted, arraigned, or appealed. And by the 37 Hen. 8. c. 8. Eng. these words, *vi et armis, viz. cum baculis, cultellis, arcubus, et sagittis*, or any of them, or like words, shall not, of necessity, be put in inquisitions or indictments: But such inquisitions, &c. lacking the said words, or any of them, shall be adjudged good in law. No Irish statute contains any similar provision. Several statutes have been already stated in their proper places, which contain clauses respecting the form of indictments to be preferred for offences against such acts; which it is unnecessary here to repeat.

II. To prevent malicious *informations* in the court of king's bench, and for the more easy reversal of outlawries in the said court; the 4 & 5 W. & M. c. 18.

Eng.

1 Hen. 5. c. 5.
E. & I.

4 Hen. 4. c. 2.
E. & I.

Certain words
not to be used
in indictments.

37 Hen. 8. c. 8.
Eng.

§ 2.

Clerk of the crown not to exhibit, &c. any information, without obtaining recognizance of party procuring the same.

4 & 5 W. & M. c. 18. Eng.

Costs in what cases awarded to defendants.

How enforced.

s. 6.

To what informations this act extends.

Eng. enacts, that the clerk of the crown in the king's bench, shall not, without express order of the court in open court, exhibit, receive, or file any information for trespasses, batteries, or other misdemeanors, or issue out any process thereupon, before he shall have taken, or shall have delivered to him a recognizance from the person procuring such information to be exhibited, in the penalty of £20. that he will effectually prosecute such information, and abide by and observe such orders as the court shall direct; which recognizance the said clerk of the crown, and also every justice of peace of any county, &c. where the cause of such information shall arise, are empowered to take; after the taking whereof by the said clerk of the crown, or the receipt thereof from any justice of peace, the clerk of the crown shall make an entry upon record, and shall file a *memorandum* thereof, in some public place in his office, that all persons may resort thereto without fee. And in case any person against whom any such information shall be exhibited, shall appear thereto, and plead to issue, and that the prosecutor shall not, at his own costs, within one year after issue joined therein, procure the same to be tried; or if upon such trial a verdict pass for the defendant, or in case the informer procure a *noli prosequi* to be entered; then the king's bench is hereby authorized to award to the defendant his costs, unless the judge, before whom such information shall be tried, shall, at the trial of such information, in open court, certify upon record, that there was a reasonable cause for exhibiting such information; and in case the informer shall not, within 3 months after the costs taxed, and demand made thereof, pay to the defendant said costs, the defendant shall have the benefit of said recognizance to compel him thereto. Provided (s. 6.) that nothing in this act relating to informations, shall extend to any other informations than such as shall be exhibited in the name of their majesties coroner or attorney in the king's bench, commonly called the master of the crown office. By s. 7. upon any demise of any king or queen of this realm, all pleas to informations in the said court

court shall stand good, without calling defendants to plead again to the same, unless the defendants desire so to do, and make request to said court for that purpose, within 5 months next after such demise. To this statute there is none corresponding in Ireland.

III. With respect to the cognizance of *appeals*: The §. 3.
 1 Hen. 4. c. 14. E. & I. enacts, that all appeals to be *Appeals where*
 made of things done within the realm, shall be tried and *tried.*
 determined by the good laws of the realm: and that all *11 Hen. 4. c. 14.*
E & I.
 appeals to be made of things done out of the realm,
 shall be tried and determined before the constable and
 marshal of England: And no appeals shall be pursued
 in parliament. With respect to the form of the count
 in appeals, and the time within which they shall be
 sued: the 6 Edw. 1. c. 9. E. & I. enacts, that if the ap- *6 Edw. 1. c. 9.*
 pellor declare the deed, the year, the day, the hour, *E. & I.*
 the time of the king, and the town where the deed was *Form of the*
 done, [*and with what weapon he was slain,] the appeal *count in appeals.*
 shall stand in effect, and shall not be abated for default
 of fresh suit, if the party shall sue within the year and
 the day after the deed done. As to persons by whom
 appeals shall be sued, it is a provision of the Great
 Charter, 9 Hen. 3. c. 34. E. & I. that no man shall be *9 Hen. 3. c. 34.*
 taken or imprisoned upon the appeal of a woman, for *E. & I.*
 the death of any other than her husband. With respect *Appeals by wo-*
 to the point of bringing appeals against accessaries as *men in what*
 well as principals, the 3 Edw. 1. c. 14. E. & I. provides, *cases.*
 that none shall be outlawed upon appeal of command- *3 Edw. 1. c. 14.*
 ment, force, aid, or receipt, until he that is appealed *E. & I.*
 of the deed be attainted: Nevertheless he that will so *Appeals against*
 appeal, shall not forbear to commence his appeal at the *accessaries.*
 next county against them as well as against their prin-
 cipals; but their *exigent* shall remain, until such as be
 appealed of the deed be attainted by outlawry, or other-
 wise. For as much as many, through malice, do
 procure false appeals to be made of homicides and
 other felonies by appellors; the 13 Edw. 1. st. 1. *13 Edw. 1. st. 1.*
 c. 12. E. & I. enacts, that when any being ap- *c. 12. E. & I.*
 pealed

* Not in the original, vide Ruffhead's statutes.

*Punishment of
an appellor for
a false appeal.*

pealed of felony, doth acquit himself in the king's court, either at the suit of the appellor, or of the king, the justices before whom the appeal shall be determined, shall punish the appellor by a year's imprisonment, and the appellors shall nevertheless restore to the parties appealed their damages, according to the discretion of the justices; and shall pay a grievous fine to the king. And if such appellor be not able to recompense the damages, it shall be inquired by whose abetment or malice the appeal was commenced, if the party appealed desire it; and if it be found by the same inquest, that any man is abettor through malice, at the suit of the party appealed, he shall be distrained by a judicial writ to come before the justices; and if he be convict of such malicious abetment, he shall be punished by imprisonment, and restitution of damages, as before is said of the appellor. In appeal of the death of a man, there shall no essoin lie for the appellor.

*Who shall sue
appeal of rape,
where woman
doth consent.*

6 Ric. 2. st. 1.
c. 6. E. & I.

As to appeals of rape in particular; the 6 Ric. 2. st. 1. c. 6. E. & I. enacts, that when women be ravished, and after such rape do consent to such ravishers, as well the ravishers as they that be ravished, shall be from thenceforth disabled to have or claim inheritance, dower, or joint-feoffment after the death of their husbands and ancestors; and the next of blood of such ravishers, or of those that be ravished, to whom such inheritance, &c. ought to revert, remain, or come, after the death of such ravisher, &c. shall have title immediately after any such rape, to enter upon such ravisher, &c. or her that is ravished, and their assigns, and tenants, and the same to hold as an estate of inheritance. And the husbands of such women, if they have husbands, or if they have no husbands in life, then the fathers, or other next of their blood, shall have the suit to pursue such offenders, and to have them convict of life and of member, although such women do consent to such ravishers. And the defendant, in such cases, shall not be received to wage battle, but the truth of the matter shall be tried by inquisition of the country. Saving to the king, and other lords of the realm, their escheats. This statute is specially

cially adopted in Ireland by the 8 Edw. 4. c. 1. Ir. And ^{8 Edw. 4. c. 1.} as to appeals of murder; the 3 Hen. 7. c. 1. E. & I. ^{Ir.} provides, that if any man be slain or murdered, the ^{3 Hen. 7. c. 1.} slayers, murderers, abettors, maintainers, and comforters, ^{E. & I.} may be indicted, &c. at the king's suit, within the year ^{Within what} after such felony and murder, and not tarry the year ^{time, and before} and day for any appeal to be taken for such felony, &c.; ^{whom, an appeal} and if any person named as principal or accessory be ^{of murder shall} acquitted of such murder at the king's suit, within the ^{be commenced.} year and day, then the justices before whom he is acquitted, shall not suffer him to go at large, but either remit him again to prison, or let him to bail, at their discretion, till the year and day be passed; and if such felons, &c. and accessories, be acquit, or the principal, or any of them, be attainted, the wife, or next heir to him so slain, as shall require, may have their appeal within the year and day after such felony and murder done, against the persons so arraigned and acquit, and their accessories, or against the accessories of said principal, or any of them so attainted, or against the principals so attainted, if they be alive, and the benefit of clergy thereof before not had: and the appellant shall have like advantage, as if the acquittal or attainder had not been: And the wife, or heir of the person so slain, may commence their appeal in proper person, at any time within the year after the felony done, before the sheriff and coroners of the county where the felony, &c. was done, or before the king in his bench, or justices of gaol-delivery: And the appellant in any appeals of murder or death of man, where battel by the course of the common law lieth not, may make their attornies, and appear by the same, in said appeals, to the end of the suit, and execution of the same. The 10 Hen. 7. c. 11. ^{10 Hen 7. c 11.} Ir. may be here stated, which recites, that there was a ^{s. 1. Ir.} damnable custom in Ireland, of taking money or amends for the death or murder of a friend or kinsman, from all persons of the same name with the causer of the murder; ^{No person to} and enacts, that if any person compel any of the king's ^{take amends for} subjects to pay any assault, or have amends, otherwise ^{murder of friend} ^{or kinsman.}

than the king's laws will, he that shall so offend shall have judgment *de vie et de membre*.

CHAP. XXI.

Of Process upon Indictment.

What process shall be awarded against him that is indicted of felony.

25 Edw. 3. st. 5. c. 14. E. & I.

6 Hen. 6. c. 1. E. & I.

Within what time the capias shall be returnable.

8 Hen. 6. c. 10. E. & I.

BY the 25 Edw. 3. st. 5. c. 14. E. & I. after any man be indicted of felony before the justices in their sessions of *oyer and terminer*, it shall be commanded to the sheriff to attach his body by writ or by precept, which is called a *capias*. And if the sheriff return that the body is not found, another writ, &c. of *capias* shall be immediately made, returnable at 3 weeks after. And in such writ, &c. it shall be contained, that the sheriff shall cause to be seized, his chattels, and safely to keep them till the day of the writ, &c. returned. And if the sheriff return that the body is not found, and the indictee cometh not, the *exigent* shall be awarded, and the chattels shall be forfeit; but if he come and yield himself, or be taken by the sheriff, or other minister, before the return of the second *capias*, then the goods and chattels shall be saved. But the 6 Hen. 6. c. 1. E. & I. provides, that before any *exigent* be awarded, against any persons indicted before the king in his bench, writs of *capias* shall be directed, as well to the sheriff of the county wherein they be indicted, as to the sheriff of the county whereof they be named in the indictments; the same *capias* having 6 weeks at least, or a longer time by the discretion of the justices, before the return of the same; and if any *exigent* be awarded, or any outlawry pronounced against such persons indicted, before the return of said writs, the same *exigent*, with the outlawry thereof pronounced, shall be void. And by the 8 Hen. 6. c. 10. E. & I. upon every indictment or appeal, by which

which any of the lieges dwelling in other counties, than where such indictment, &c. is taken, of treason, felony, and trespass, before any *exigent* awarded, after the first *capias* returned another *capias* shall be awarded, directed to the sheriff of the county whereof he which is so indicted is supposed to be conversant, containing 3 months from the date of the writ, where the counties be holden from month to month, and where the counties be holden from 6 weeks to 6 weeks, he shall have 4 months until the day of the return of the writ; by which 2nd *capias* it shall be commanded to the sheriff to take him by his body, if he may be found within his bailiwick, and if he may not be found, that the sheriff make proclamation in two counties before the return, that he which is so indicted or appealed appear before the justices or commissioners, where he is indicted, &c. to answer to the king, or to the party, of the felony, &c. whereof he is indicted or appealed; after which 2nd *capias*, if he which is indicted, &c. come not at the day, the *exigent* shall be awarded. And by s. 3. if any *exigent* be awarded in such indictment, &c. against the form aforesaid, or any outlawry pronounced, they shall be void. Provided (s. 4.) that the 6 Hen. 6. c. 1. *supra*, stand in force. And every person indicted or appealed as aforesaid, after he be acquit by verdict, shall have a writ upon his case against every procurer of such indictments, &c. and like process shall be in the same as in a writ of trespass with force and arms; and if such procurer be attainted, the plaintiff shall recover treble damages. By s. 5. this ordinance shall not extend to indictments, &c. taken within the county of Chester. Provided (s. 6.) that if any of the lieges be appealed or indicted of felony or treason, and at the same time of such felony, &c. supposed, he was conversant in the county whereof the indictment, &c. maketh mention, the like process be made against such person so appealed &c. as hath been used. And the 10 Hen. 6. c. 6. E. & I. further provides, that if any indictments taken before any justices of peace, or other having power to take such indictments or appeals, shall be removed before

Second capias, and proclamation, before awarding exigent.

s. 3.

Otherwise outlawry void.

s. 4.

Treble damages for malicious prosecutions.

s. 5.

Proviso, as to Chester.

s. 6.

Proviso.

10 Hen. 6. c. 6. E. & I.

What process shall be awarded upon an indictment removed into the king's bench.

the king in his bench, or elsewhere, by *certiorari* or otherwise, then before any *exigent* awarded, after the first writ of *capias* returned, another *capias* shall be awarded, directed to the sheriff of the county whereof he that is indicted, &c. is supposed to be conversant, returnable before the king in his bench, at a day containing 3 or 4 months from the date of the last writ of *capias*, according to the manner that the justices of peace and others in the 8 Hen. 6. c. 10. *supra* ought to have done; and if any such *exigent* be awarded upon any such indictment, &c. after such removing, against the form aforesaid, or any outlawry thereupon pronounced, the same shall be void.

Process against him that doth commit felony and fly into an unknown place.

2 Hen. 5. st. 1. c. 9. E. & I.

The 2 Hen. 5. st. 1. c. 9. E. & I. enacts, that in murders, manslaughter, robberies, batteries, assemblies of people in great number in manner of insurrection, and other rebellions and riots, if any person come into chancery, and make complaint that any such felon or offender fly or withdraw himself, a bill shall be made for the king; and the chancellor, after such bill to him delivered, (if he be duly informed that such bill containeth truth) shall have power to make a writ of *capias* at the king's suit, directed to the sheriff, returnable in chancery at a certain day; and if the persons be taken by the sheriff, or yield them in the chancery, such persons shall be put in ward, or to mainprise, and he shall send to inquire of such offences; and if the sheriff return that the persons cannot be taken, and the same persons do not yield them in the chancery, the chancellor shall cause to be made a writ of proclamation, directed to the sheriff, returnable in the king's bench, that he make proclamation in two counties, that the persons named in the writ shall come to answer to the matter comprised in the bill, upon pain to be convict; and in every such writ of proclamation shall be contained the substance of the bill; and if they come not at the day, then shall they be convict. Provided (s. 2.) that the suggestions of such riots be witnessed to the chancellor by letters under the seals of 2 justices of peace, and the sheriff, before the writ of *capias* be granted; in which writ the matter comprised

s. 2.

Such riots to be testified by 2 justices and sheriff.

prised in the bill shall be as well expressed as in the writ of proclamation. And if such cause happen in the county palatine of Lancaster, or elsewhere in any franchise where there is a chancellor, the chancellor of England shall cause to be sent by the king's writ, to the chancellor of such county or franchise, all the suggestions in the bill comprised, commanding him to make execution; so always that the king's writ do not run out of the chancery of England into such county or franchise, otherwise than hath been used. This statute is confirmed by the 8 Hen. 6. c. 14. E. & I. which how-
 ever provides, that it shall be testified by 2 justices of peace of the counties where such riots shall be, that the common fame runneth in the counties of the same riots, before the writ of *capias* be awarded. Provided also, that if such case happen in the county palatine of Lancaster, or elsewhere in a place enfranchised, where there is a chancellor, the chancellor of such county, &c. after complaint to him duly made, and testified by a justice, or the lieutenant of a justice, and the sheriff of such county, &c. in form aforesaid, shall have like power to award a *capias*, and writ of proclamation, as the chancellor of England hath.

Proviso as to Lancaster, &c.

8 Hen. 6. c. 14. E. & I.

Justices to certify the common fame in respect to such riots.

The 7 Hen. 5. c. 1. E. & I. (which is confirmed by the 9 Hen. 5. st. 1. c. 1. E. & I. and 18 Hen. 6. c. 12. E. & I.) recites, that many people by malice cause the king's liege people to be appealed or indicted in divers counties of treasons or felonies, supposing by said appeals or indictments that the said treasons, &c. were done in a certain place in such a county, where the indictment is made, or such a place as is declared by such appeals, where no such place is in the same county; and enacts, that the process of the same shall be void; and the indictors, procurators, and conspirators, shall be also punished by imprisonment, and fine and ransom for the king's benefit, by the discretion of the justices; and said appellees or indictees may have writs of conspiracy against such indictors, &c. and shall recover their damages.

Process upon false appeals and indictments void.

7 Hen. 5. c. 1. E. & I.

9 Hen. 5. st. 1. c. 1. E. & I.

18 Hen. 6. c. 12. E. & I.

Such indictors, &c. how punished.

The 6 Hen. 8. c. 6. Eng. may be here also stated, which recites, that divers felons and murderers, upon feigned

The justices of K. B. may remove prisoners out of that court into the country to be tried.

6 Hen. 8. c. 6. Eng.

11 & 12 Geo. 3. c. 34. Ir.

Prisoners and indictments removed into K. B. may be remitted to proper counties.

21 & 22 Geo. 3. c. 51. Ir.

Prisoners, &c. removed into K. B. at suit of the crown, also remandable.

10 & 11 Car. 1. c. 10. s. 4. Ir.

feigned surmises, have oftentimes removed as well their bodies as their indictments, by writ and otherwise, before the king in his bench, and cannot by law be remitted to the justices of gaol-delivery, or of the peace, or other justices or commissioners; and therefore enacts, that the justices of the king's bench shall have power, by their discretions, to remand as well the bodies of all felons, &c. removed or brought before the king in his bench, as their indictments, into the counties where such felonies, &c. have been committed; and to command all justices of gaol-delivery, justices of peace, and other justices and commissioners, to proceed thereupon as if said prisoners or indictments had not been brought into the king's bench. Analogous to this statute is the 11 & 12 Geo. 3. c. 34. Ir. which recites, that persons indicted for high treason and felony, may remove as well their bodies as their indictments into the court of king's bench, and cannot be remitted to the justices of gaol-delivery, or of the peace, or other justices or commissioners, to proceed upon them; and therefore enacts, that in every such case the justices of the king's bench may remand and send down as well the bodies of such persons, as their indictments, into the counties where such treason or felony shall be charged in said indictments to be committed, and command all justices of gaol-delivery, justices of peace, and other justices and commissioners of *oyer and terminer*, to proceed upon the bodies and indictments so removed, after the course of the common law, in such manner as if said prisoners or indictments had never been brought into the king's bench. And by the 21 & 22 Geo. 3. c. 51. Ir. the provisions of the 11 & 12 Geo. 3. c. 34. Ir. *supra*, are extended to cases where the bodies of persons indicted for high treason or felony, or their indictments, are removed into the king's bench at the suit of the crown. The 10 & 11 Car. 1. c. 10. Ir. recites, that divers bills of indictment of riots, forcible entry, or of assault and battery, or other trespasses, being found before the [*justices of assize at the general assizes,

* The words within the crotchets are not contained in the 21 Jac. 1. c. 8. s. 6 & 7. Eng. from which this clause is taken, *vide* p. 1113-4.

assizes, or] before the justices of peace at their quarter sessions, or otherwise, are oftentimes removed from the counties where such indictments are found, by writs of *certiorari*, by means of the persons so indicted, who well know that few or no persons will undergo the travail or charge of bringing them to trial; and therefore enacts, that every writ of *certiorari* shall be delivered [*at the general assizes, or] at some quarter sessions of the peace, in open court; and the parties indicted shall, before the allowance of such *certiorari*, become bound unto the prosecutor in £10. with such sureties as [*the justices of assize at their general assizes, or] the justices of peace at their quarter sessions shall think fit, with condition to pay unto the prosecutor, within a month after conviction of such parties indicted, such reasonable costs and damages as [*the justices of assize, or] justices of peace of such counties where such bills of indictment shall be found, in the [*general assizes or] sessions respectively, shall allow; and in default thereof it shall be lawful to proceed to the trial of such indictments. The 5 W. & M. c. 11. Eng. and 8 Ann. c. 5. Ir. *ante* p. 1113. are to be here also referred to.

Certiorari not to be allowed unless indicted become bound to pay costs.

* *Vide note to p. 1194.*

By the 27 Hen. 8. c. 24. s. 3. Eng. [all original writs and judicial writs,] and all indictments of treason, felony, and trespass, and all process to be made upon the same, in every county palatine, and other liberty, shall be made in the name of the king, [and every person having such county palatine, &c. shall make the *teste* in the said original and judicial writs, in the name of the person that hath such county palatine, &c.] And by s. 4. in every [writ and] indictment that shall be made within such county palatine, whereby it shall be supposed any thing to be done against the king's peace, shall be made and supposed to be done against the king's peace, and not against the peace of any other person.

All process upon indictments, &c. in counties palatine, shall be in the name of the king.

27 Hen. 8. c. 24. s. 3. Eng.

s. 4.

And state offences to be against the king's peace.

CHAP. XXII.

Of Arraignment and its Incidents.

§. 1.

*Accessory may
be tried though
principal admit
ted to benefit of
clergy, &c.*

1 Ann. st. 2.
c. 9. s. 1. Eng.

SEVERAL statutes have been stated in the progress of this work, which provide for the arraignment and trial of *accessaries*, in cases where by the common law they could not be arraigned or tried: And to this head is to be referred the 1 Ann. st. 2. c. 9. Eng. which recites, that as the law then was no accessory could be convicted or suffer any punishment where the principal was not attainted, or had the benefit of clergy, and therefore provides (s. 1.) that if any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above 20 persons, &c. it shall be lawful to proceed against any accessory, either before or after the fact, as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of clergy, pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he be convicted, or stand mute, or peremptorily challenge above 20, &c. as if the principal had been attainted. This clause has not been adopted by any Irish statute, though the 4 Ann. c. 11. Ir. has adopted s. 2. of this act, *vide* p. 588.

§. 2.

*Person stand-
ing mute how
punished.*

3 Edw. 1. c. 12.
E. & I.

II. The 3 Edw. 1. c. 12. E. & I. (which seems to be the foundation of the law for the punishment of persons *standing mute*) enacts, that notorious felons, and persons of evil name, that will not put themselves upon inquests of felonies, before the judges, at the suit of the king, shall be put into hard and strong prison, as those which refuse to be at the common law of the land. But this is not to be understood of such prisoners as be taken of
light

light suspicion. But the 3 W. & M. c. 9. Eng. enacts, ^{3W. & M. c. 9. s. 2. Eng.} (s. 2.) that if any person indicted of any offence, for which, by virtue of any former statute, he is excluded from the benefit of clergy, if he had been convicted by verdict or confession, shall stand mute, or will not answer directly to the felony, or shall challenge peremptorily above 20 persons returned to be of the jury, or shall be outlawed thereupon, he shall not be admitted to the benefit of clergy. And the 9 W. 3. c. 7. Ir. contains a similar clause. ^{9 W. 3. c. 7. s. 2. Ir.} The 12 Geo. 3. c. 20. Eng. further enacts, that if any person being arraigned upon any indictment or appeal for *felony, or on any indictment for piracy, shall, upon such arraignment, stand mute, or will not answer directly to such felony, &c. he shall be convicted of the felony, &c. charged in such indictment or appeal; and the court before whom he shall be arraigned, shall award judgment and execution as if such person had been convicted by verdict or confession; and such judgment shall have the same consequences, as if he had been convicted by verdict. [And by s. 2. this act shall extend to the colonies in America.] ^{12 Geo. 3. c. 20. s. 1. Eng.} The first section of this statute has been followed by the 13 & 14 Geo. 3. c. 16. Ir. with such deviation only as is noted in the margin. ^{Persons standing mute, when capitally punished.} ^{Persons arraigned for felony or piracy, standing mute, capitally punished.} ^{s. 2.} ^{Act to extend to America.} ^{13 & 14 Geo. 3. s. 16. Ir.}

III. As to the incident of *approvement*: The 28 Edw. 1. st. 2, E. & I. enacts, that whosoever be appealed by provors, being in prisons which the same justices do deliver, it shall be commanded to the sheriff in whose liberty the parties appealed may be found, by writ under *teste* of the justices, that he take such persons appealed, and cause them to be brought to the gaols where the appealors be kept, there to answer before the justices. And if they put themselves upon the country, it shall be commanded by the same justices to the sheriff in whose liberty the felonies were done, that he cause an inquest to come before the same justices unto the same place where the appealors be kept, at a certain day. And the sheriffs

* "Murder" is here added in the 13 & 14 Geo. c. 16. Ir. murder being then treason in Ireland.

5 Hen. 4. c. 2.
E. & I.

*Penalty for pro-
curing pardon
for approvers,
that afterwards
commit felony.*

riffs, and others, in whose keeping such appealors be, shall receive those that be so appealed. The 5 Hen. 4. c. 2. E. & I. recites, that notorious felons become approvers, with intent, by brokage, grants, and gifts, to be made by them, to obtain their charters of pardon, and then become more notorious felons; and enacts, that if any person shall pursue, (or cause, &c.) for any felon so attainted by his own confession, to have any charter of pardon, the name of him that pursueth such charter shall be put in the same, making mention that such charter is granted at his instance, and if he to whom such charter is granted become a felon again, the person so pursuing for his charter, shall forfeit £100. to the king. Several statutes which have been abridged in the preceding pages of this work, contain clauses providing rewards, as well as pardon, for offenders discovering and convicting their accomplices.

CHAP. XXIII.

Of Plea and Issue.

*Plea of sanctu-
ary abrogated.*

21 Jac. 1. c. 28.
s. 7. Eng.

26 Hen. 8. c. 13,
s. 3. Eng.

28 Hen. 8. c. 7.
s. 2. Ir.

THE plea of *sanctuary* has been abrogated in England by the 21 Jac. 1. c. 28. Eng. which enacts (s. 7.) that no sanctuary or privilege of sanctuary shall be allowed in any case. No Irish statute contains any similar provision: save that the 28 Hen. 8. c. 7. Ir. provides (s. 2.) that no offender in any kind of treason, their aiders, consentors, counsellors, and abettors, shall be admitted to have the benefit or privilege of any manner of sanctuary: this statute having followed in this respect the 26 Hen. 8. c. 13. Eng. And it may be here observed that "to take sanctuary" is one of the acts of bankruptcy enumerated in the 11 & 12 Geo. 3. c. 8. Ir. which adopted

adopted this clause from the 13 Eliz. c. 7. s. 1. Eng. and 1 Jac. 1. c. 15. s. 2. Eng.

The 17 & 18 Geo. 3. c. 45. Ir. contains a provision *Outlawry of a grand juror in a civil case, no plea.* which seems to be proper for this place. By s. 1. of this act, no plea of the *outlawry* of a grand juror in any civil case, shall be received in avoidance of any act to be done by any grand jury.* *17 & 18 Geo. 3. c. 45. s. 1. Ir.*

The 3 Hen. 7. c. 1. E. & I. which respects the plea of *autrefois acquit* in appeals, has been already stated *ante* p. 1189.

CHAP. XXIV.

Of Trial and Conviction.

THE proceedings upon trials in cases of high treason, are regulated by the 7 W. 3. c. 3. Eng. which enacts, that every person that shall be indicted for high treason, whereby any corruption of blood may be made to such offender, or his heir, or for misprision of such treason, shall have a true copy of the whole indictment, [†but not the names of the witnesses] delivered unto him, [†5 days] at least before his trial, to enable him to advise with counsel thereupon, to plead and make his defence, his attorney or agent requiring the same, and paying the officer his reasonable fees for writing thereof, not exceeding 5s. for the copy of every such indictment; and every person so indicted, &c. shall be admitted to make his full defence by counsel, and to make any proof by lawful witness or witnesses upon oath; and in case any person so indicted shall desire counsel, the court before whom he shall be tried, or some judge thereof, shall, upon his request, assign him so many counsel, not exceeding 2, as he shall desire; to whom such

Upon trials for high treason, prisoner to have copy of indictment.
7 W. 3. c. 3. Eng.
 † *Vide 7 Ann. c. 21. s. 11. post.*
And may produce witnesses on his behalf.
Counsel assigned

* *Vide 11 Hen. 4. c. 9. E. & I. ante* p. 1116-7.

- such counsel shall have free access at all seasonable hours. And by s. 2. no person shall be indicted, tried, or attainted for any such high treason or misprision of treason, (as in s. 1.) but by the testimony of 2 lawful witnesses, either both of them to the same overt act, or one of them to one, and the other to another overt act of the same treason; unless the party indicted, &c. shall, willingly without violence, in open court, confess the same, or shall stand mute, or refuse to plead, or, in case of high treason, shall peremptorily challenge above 35 of the jury: But by s. 4. if two treasons of divers kinds shall be alledged in one bill of indictment, one witness produced to prove one of said treasons, and another witness to another, shall not be deemed to be 2 witnesses within this act. And by s. 8. no evidence shall be given of any overt act that is not expressly laid in the indictment. This act further provides (s. 7.) that every person who shall be indicted and tried for such treason or misprision of treason as in s. 1. shall have copies of the panel of jurors who are to try them, duly returned by the sheriff, and delivered to them [*2 days] at least before they shall be tried. And all persons so indicted for such treason as aforesaid, shall have the like process of the court where they shall be tried, to compel the witnesses to appear for them at such trial, as is usually granted to compel witnesses to appear against them. Provided (s. 3) that any person being indicted as aforesaid, may be outlawed, and thereby attainted for any such treason or misprision of treason; and in cases of the high treasons aforesaid, where, by law, after such outlawry, the party may come in and be tried, he shall, upon such trial, have the benefit of this act. By s. 5. no person shall be indicted for such treason or misprision of treason as aforesaid, that shall be committed within England, Wales, or Berwick, unless such indictment be found by a grand jury within 3 years after the treason or offence committed. Provided (s. 6.) that any person who shall be guilty of designing, endeavouring, or attempting any assassination
- s. 2.
Two witnesses required to convict;
- Unless above 35 challenged, &c.*
- s. 4.
Two witnesses to be to each kind of treason,
- s. 8.
Overt acts to be laid in indictments.
- s. 7.
Copies of panel of jurors to be furnished to prisoners.
*Vide 7 Ann. c. 21. s. 11 post.
- s. 3.
Proviso as to outlawry.
- s. 5.
Limitation for prosecutions.
- s. 6.

assassination on the body of the king, by poison or otherwise, may be prosecuted at any time, notwithstanding said limitation. By s. 9. no indictment for any of the offences aforesaid, nor any process or return thereupon, shall be quashed for mis-writing, mis-spelling, false or improper Latin, unless exception concerning the same be made in the court where such trial shall be, by the prisoner or his counsel, before any evidence given in open court upon such indictment; nor shall any such mis-writing, &c. after conviction on such indictment, be any cause to stay or arrest the judgment: But any judgment upon such indictment shall be liable to be reversed upon a writ of error, in the same manner as if this act had not been made. And whereas upon trials of commoners for their lives, a jury of 12 freeholders must all agree in their verdict; but upon the trial of peers or peeresses a major vote is sufficient to acquit or condemn; this act further provides (s. 11.) that upon the trial of any peer or peeress for treason or misprision, all the peers who have a right to sit and vote in parliament, shall be duly summoned 20 days at least before such trial, and every peer so summoned and appearing at such trial shall vote, first taking the oaths of allegiance and supremacy, and subscribing the declaration against popery, *vide* vol. 1. p. 140. [*By s. 12. this act shall not extend to any impeachment or other proceedings in parliament:] Nor by s. 13. to any indictment of high treason, or proceedings thereon, for counterfeiting the king's coin, his great seal, or privy seal, his sign manual, or privy signet. The provisions of the 7 W. 3. c. 3. *supra*, are in part altered by the 7 Ann. c. 21. Eng. which enacts, that when any person is indicted for high treason, or misprision of treason, a list of the witnesses that shall be produced on the trial, and of the jury, mentioning the names, profession, and place of abode of the said witnesses and jurors, be also given at the same time that the copy of the indictment is delivered to the party indicted; and copies of all indictments for the offences aforesaid,

Proviso as to persons designing, &c. any assassination of the king.

s. 9.

What errors in indictment, &c. cured by verdict.

Proviso.

s. 10 & 11.

Proviso as to trial of peers.

s. 12.

Proviso as to parliamentary impeachments.

s. 13.

Proviso as to treason, &c. concerning coin.

7 Ann. c. 21.
s. 11. Eng.

List of witnesses and jury, to be given along with copy of indictment.

When and how.

6 Geo. 3. c. 53.
s. 3. Eng.

*Proviso as to
treason for
counterfeiting
coin, &c.*

*Vide 1 & 2
Ph. & M. c. 10.
post.

20 Geo. 2. c. 30.
Eng.

*Trial how to be
upon parliamen-
tary impeach-
ments.*

39 & 40 Geo. 3.
c. 93. Eng.

*Trial how to be
in cases of trea-
son or mispri-
sion of treason,
where overt act
is assassination
of the king, &c.*

aforesaid, with such lists, shall be delivered to the party indicted, 10 days before the trial, and in presence of 2 or more credible witnesses. But the 6 Geo. 3. c. 53. s. 3. Eng. recites this clause of the 7 Ann. and enacts, that nothing therein shall extend to any indictment of high treason for counterfeiting his majesty's coin, the great seal or privy seal, his sign manual, or privy signet, or to any indictment of high treason, or proceedings thereupon, against any offender who by any act now in force is to be indicted, arraigned, tried, and convicted, by such evidence, and in such manner, as is used against offenders for counterfeiting his majesty's coin.* And the 20 Geo. 2. c. 30. Eng. with reference to s. 12. of the 7 & 8 W. 3. *supra*, enacts, that every person who shall be impeached by the commons of Great Britain of any high treason, whereby any corruption of blood may be made to such offender, or his heirs, or for misprision of such treason, shall be admitted to make his full defence by counsel, (not exceeding two) who shall be assigned for that purpose, on the application of the party impeached, at any time after the articles of impeachment shall be exhibited by the commons. And the 39 & 40 Geo. 3. c. 93. Eng. further enacts, that in all cases of high treason in compassing or imagining the death of the king, and of misprision of such treason, where the overt act which shall be alleged in the indictment for such offence, shall be assassination or killing of the king, or any direct attempt against his life, or any direct attempt against his person whereby his life may be endangered, or his person may suffer bodily harm, the person charged with such offence shall be indicted, arraigned, tried, and attainted, in the same manner, and according to the same course and order of trial, and upon the like evidence, as if such person stood charged with murder: and none of the provisions of the 7 W. 3. c. 3. or 7 Ann. c. 21. *supra*, touching trials in cases of treason and misprision of treason, shall extend to any high treason in compassing and imagining the death of the king, or for misprision of such treason, where the overt act of treason alleged in the indictment, shall

shall be such as aforesaid ; but upon conviction on such indictment, judgment shall be nevertheless given, and execution done as in other cases of high treason. The 5 Geo. 3. c. 21. Ir. enacts, that every person who shall be accused and indicted under the 25 Edw. 3. st. 5. c. 2. 5 Geo. 3. c. 21. s. 1. Ir. E. & I. (*ante* chap. 3.) shall have a true copy of the indictment delivered to him, 5 days before he shall be tried Trials for high treason how to be in Ireland. for the same, to enable him to advise with counsel to plead and make his defence ; his attorney or agent requiring the same, and paying the officer for such copy 2s. 6d. And by s. 2. every person so accused and indicted, arraigned or tried, for such offence as aforesaid, shall be admitted to make his full defence by counsel ; and the court before whom such person shall be tried, or any judge thereof, shall, upon his request, assign to such person so many counsel, not exceeding 2, as he shall desire to plead for and assist him in making his defence. s. 2.

The 31 Car. 2. c. 2. Eng. enacts (s. 7.) that if any person committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of *oyer and terminer*, or general gaol delivery, to be brought to his trial, shall not be indicted some time in the next term, sessions of *oyer and terminer*, or general gaol delivery, after such commitment, the judges of the king's bench, and justices of *oyer and terminer*, &c. shall, upon motion made to them in open court the last day of the term, sessions, or gaol-delivery, either by the prisoner, or any one on his behalf, set at liberty the prisoner upon bail, unless it appear to the judges and justices upon oath, that the witnesses for the king could not be produced the same term, sessions, or gaol-delivery ; and if any person committed as aforesaid, upon his prayer or petition in open court the first week of the term, or first day of the sessions of *oyer and terminer*, &c. to be brought to his trial, shall not be indicted and tried the second term, sessions of *oyer and terminer*, &c. after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment. Persons committed for treason or felony, to be bailed, upon motion, unless indicted the next term, &c. after commitment. 31 Car. 2. c. 2. s. 7. Eng. The 21 & 22 Geo. 3. c. 11. Ir. contains the same provision. If not tried at 2nd term, &c. discharged. 21 & 22 Geo. 3. c. 11. s. 6. Ir.

With

*Challenges on
the part of the
crown to be for
cause.*

33 Edw. 1. st. 4.
E. & I.

25 Edw. 3. st. 5.
c. 3. E. & I.

*Indictors not to
be jurors.*

1 W. & M. st. 2.
c. 2. Eng.

23 Hen. 8. c. 13.
Eng.

*Qualification for
jurors in cities,
&c.*

22 Hen. 8. c. 14.
s. 6. Eng.

*Peremptory
challenges limit-
ed in petit
treason, &c.*

10 & 11 Car. 1.
c. 9. Ir.

With respect to challenging jurors in criminal cases: The 33 Edw. 1. st. 4. E. & I. enacts, that notwithstanding it be alleged by them that sue for the king, that the jurors of those inquests, or some of them, be not indifferent for the king, yet such inquests shall not remain untaken for that cause; but if they that sue for the king will challenge any of those jurors, they shall assign a cause certain of their challenge; and the truth of the same shall be inquired of according to the custom of the court. And as to the challenges upon the part of the prisoner, the 25 Edw. 3. st. 5. c. 3. E. & I. enacts, that no indictors shall be put in inquests upon deliverance of the indictes of trespass or felony, if they be challenged for such cause by the indictes. Several statutes respecting the qualification of jurors in criminal as well as civil cases have been stated, *ante* p. 233, &c. And the 11th article of the Bill of Rights provides, that jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders. But the 23 Hen. 8 c. 13. Eng. recites, that the trials in murders and felonies in cities, boroughs, and towns corporate, have been delayed by reason of challenges for lack of sufficiency of freehold; and therefore enacts, that every person being the king's natural subject born, which by the name of a citizen or freman, or any other name, doth enjoy the liberties and privileges of any city, &c. where he dwelleth, being worth in moveable goods and substance to the value of £40. be admitted in trial of murders and felonies in every sessions and gaol delivery to be holden for such city, &c. albeit he have no freehold. Provided (s. 2.) that this act extend not to any knight or esquire dwelling, abiding, or resorting in or to any such city, &c. No Irish statute contains any similar provision: but the exception of counties of cities, and counties of towns, in the 29 Geo. 2. c. 6. Ir. *ante* p. 234. is to be here referred to. Several statutes already stated under their proper heads, limit the number of challenges: and the 22 Hen. 8. c. 14. s. 6. Eng. enacts, that no person arraigned for any [petit treason,] murder, or felony, shall be admitted to any peremptory challenge above the number of 20. And the 10 & 11 Car. 1. c. 9. Ir. also enacts,

enacts, that no person that shall be arraigned for any high treason, petit treason, murder, manslaughter, or other felony, shall be admitted to challenge peremptorily above 20 persons returned for the trial of such offenders: &c.

In Ireland what number may be challenged peremptorily in high treason, &c.

but this statute further enacts, that if any offender aforesaid, upon his arraignment or trial, shall challenge peremptorily above the number aforesaid, then the justice or commissioner, and every other person which shall have authority for the trial of such offender, shall and may proceed to give such judgment against such offender, and award such execution upon the same, as he should have done, if such offender had challenged peremptorily 36, or more, before the making of this statute. But the 1 & 2 Ph. & M. c. 10. Eng.

Consequence of challenging peremptorily above such number.

enacts (s. 7.) that all trials of any treason shall be according to the course of the common law: Saving to all persons, &c. their rights. And by s. 12. in all cases of high treason concerning coin current within the

1 & 2 Ph. & M. c. 10. s. 7. Eng.

Trials for any treason to be according to the common law.

s. 12.

realm, or for counterfeiting the king or queen's signet, privy seal, great seal, or sign manual, such manner of trial shall be observed, as heretofore by the common

So in high treason concerning coin, &c.

law. And the 3 & 4 Ph. & M. c. 11. Ir. contains corresponding clauses. And the 29 Geo. 2. c. 6. Ir. which prescribes the mode of returning and choosing juries as

3 & 4 Ph. & M. c. 11. s. 6. & 11. Ir.

29 Geo. 2. c. 6. Ir.

stated, *ante* p. 246, &c. provides, that all trials on appeals of murder or felony shall be by jurors returned by the sheriff, or other proper officer, according to the rules of the common law. And it is here to be observed that,

Appeals of murder or felony.

the 4 Ann. c. 16. Eng. which abolished the challenge for default of hundredors, and directed the *venire facias* to

4 Ann. c. 16. s. 7. Eng.

be awarded of the body of the proper county, provides, (s. 7.) that nothing in this act shall extend to any suit or appeal of felony or murder, or to any indictment or presentment of treason, felony, or murder, or other mat-

Challenges for want of hundredors in cases of treason, &c.

ter. And the 6 Ann. c. 10. Ir. contains a similar clause.

6 Ann. c. 10. s. 7. Ir.

The 3 Hen. 8. c. 12. Eng. provides, that all panels to be returned, which be not at the suit of any party, that shall be made by every sheriff, and their ministers, before

3 Hen. 8. c. 12. Eng.

Justices of gaol delivery, &c. may require sheriffs, &c. to amend panels.

any justice of gaol delivery, or justice of peace (whereof

one to be of the *quorum*), in their open sessions, to inquire for the king, shall be reformed by putting to and taking out of the names of the persons which be so impanelled, by the discretion of the same justice before whom such panels shall be returned: And the same justices shall command every sheriff, and their ministers in their absence, to put other persons in the same panel, by their discretions; and such panels so reformed shall be lawful: And if any sheriff, or his minister, do not return such panel so reformed, such sheriff, &c. shall forfeit £20. one half to the king, and the other to him that will sue by action of debt, &c.: And the king's pardon shall be no bar to him that will sue. To which there is no corresponding statute in Ireland.

*Foreign pleas
when and how
tried.*

23 Hen. 8. c. 14.
s. 5. Eng.

* *vide* 1 & 2
Ph. & M. c. 10.
p. 1205.

Next as to the trial of foreign pleas; The 23 Hen. 8. c. 14. Eng. enacts (s. 5.) that all manner of foreign pleas triable by the country, upon an indictment for any [*petit treason], murder, or felony, shall be forthwith tried before the same justices before whom the party shall be arraigned; and by the jurors of the same county that shall try the petit treason, &c. whereof he shall be so arraigned, without any further respite or delay, in whatsoever county or place the matter of the plea be supposed or alleged. No Irish statute contains any similar provision.

*Two witnesses
in what cases
required to con-
vict.*

1 Edw. 6. c. 12.
s. 22. Eng.

5 & 6 Edw. 6.
c. 11. s. 12. Eng.

*Two witnesses
in treason con-
fronted with
prisoner.*

As to the law of evidence in criminal cases, and first as to the number of witnesses necessary to convict: The 1 Edw. 6. c. 12. Eng. provides, (s. 22.) that no person shall be indicted, arraigned, or convicted, for any offence of treason, petit treason, or misprision of treason, for which the offender shall suffer the pains of death, imprisonment, loss or forfeiture of goods, &c. lands, &c. unless such offender be accused by 2 lawful witnesses, or shall willingly without violence confess the same. And the 5 & 6 Edw. 6. c. 11. Eng. also enacts, (s. 12.) that no person shall be indicted, &c. for any treason, unless he be accused by 2 lawful accusers; which accusers, at the time of the arraignment of the party accused, if they be then living, shall be brought in person before the party accused, and avow and maintain

tain that they have to say against the said party, to prove him guilty; unless the said party arraigned shall willingly without violence confess the same: saving to every person, &c. their heirs and successors, other than the offenders and their heirs, their rights, &c. No Irish statute contains any corresponding clauses. The 8 & 9 W. 3. c. 26. s. 7. Eng. *ante* p. 476. 1 & 2 Ph. & M. c. 11. s. 3. Eng. *ante* p. 479. 15 Geo. 2. c. 28. s. 5. Eng. *ante* p. 478. 1 Eliz. c. 1. s. 37. Eng. *ante* p. 536. 1 & 2 Ph. & M. c. 10. s. 12. Eng. *ante* p. 1205. and 7 W. 3. c. 3. s. 2. Eng. *ante* p. 1200. and the several corresponding Irish statutes, are to be here also referred to. As to the nature of the evidence upon trials of women charged with the murder of their bastards, the 43 Geo. 3. c. 58. E. & I. (which repeals the 21 Jac. 1. c. 27. Eng. and 6 Ann. c. 4. Ir.) enacts (s. 3.) ^{43 Geo. 3. c. 58. s. 3. E. & I.} that the trials of women charged with the murder of any issue of their bodies, male or female, which being born alive would by law be bastard, shall be governed by such rules of evidence and of presumption, as are by law used in respect to other trials for murder. Provided (s. 4.) that it shall be lawful for the jury by whose verdict any prisoner charged with such murder shall be acquitted, to find, (in case it shall so appear in evidence) that the prisoner was delivered of issue of her body, male or female, which if born alive, would have been bastard, and that she did by secret burying, or otherwise, endeavour to conceal the birth thereof: and thereupon it shall be lawful for the court before which such prisoner shall have been tried, to adjudge that such prisoner shall be committed to the common gaol or house of correction, for any time not exceeding 2 years. As to admitting witnesses upon the part of the prisoner, besides the 31 Eliz. c. 4. s. 2. Eng. *ante* p. 514. and 7 W. 3. c. 3. s. 7. Eng. *ante* p. 1199. the 1 Ann. st. 2. c. 9. ^{1 Ann. st. 2. c. 9. s. 3. Eng.} Eng. enacts, (s. 3.) that every person who shall be produced or appear as a witness on behalf of the prisoner, upon any trial for [*treason] or felony, before he be admitted to give any evidence, shall first take an oath to depose the truth, the whole truth, and nothing but the truth, in such manner as the witnesses for the crown

What evidence required to convict women charged with murdering bastards.

s. 4.

Punishment for secret burying, &c. of bastards.

Witnesses for prisoner how sworn.

* "Murder" in 9 Ann. c. 6. Ir

are obliged to do; and if convicted of wilful perjury in such evidence, shall suffer all the punishments, &c. which may be inflicted upon persons convicted of wilful perjury. The 9 Ann. c. 6. Ir. contains a similar clause, but with such deviation as is noted in the margin.

9 Ann. c. 6.
s. 9. Ir.

Subpœna, &c.
may be served in
one part of unit-
ed kingdom, to
compel attend-
ance of witnesses
in another.

45 Geo. 3. c. 92.
s. 3. U. K.

Contempt of such
process how
punished.

s. 4.

Proviso as to
tendering ex-
penses.

With respect to the process for procuring the attendance of witnesses in criminal cases: The 45 Geo. 3. c. 92. U. K. provides, (s. 3.) that the service of every writ of *subpœna*, or other process, upon any person, in any one of the parts of the united kingdom, requiring the appearance of such person to answer or give evidence in any criminal prosecution, in any other of the parts of the same, shall be as effectual as if the same had been served in that part of the united kingdom where the person so served is required to appear; and in case such person so served shall not appear according to the exigence of such writ or process, it shall be lawful for the court out of which the same issued, upon proof made of the service thereof to the satisfaction of said court, to transmit a certificate of such default under the seal of the same court, or under the hand of one of the judges or justices of the same, to the court of king's bench in England in case such service was had in England, or in case such service was had in Scotland, to the court of justiciary in Scotland, or in case such service was had in Ireland, to the court of king's bench in Ireland; and the said last mentioned courts shall thereupon proceed against and punish the person so having made default, as if such person had neglected or refused to appear in obedience to a *subpœna* or other process issued out of such last mentioned courts. Provided (s. 4.) that none of such last mentioned courts shall so proceed to punish any person for having so made default, unless it shall be made to appear to such court, that a reasonable and sufficient sum of money to defray the expenses of coming and attending to give evidence, and of returning from giving such evidence, had been tendered to such person at the time when such *subpœna* or other process was served upon such person.

By the 10 & 11 W. 3. c. 23. s. 7. Eng. no clerk of assize, clerk of the peace, or other person, shall demand

mand any fee of any person that shall be bound by any justice of peace to give evidence against any traitor or felon, for the discharge of any recognizance; nor shall demand more than 2s. for the drawing any bill of indictment against any felon, upon pain of forfeiting £5. to the person aggrieved, with costs. And by s. 8. if any clerk of assize, clerk of the crown, clerk of the peace, clerk of the indictments, or other proper officer, shall draw any bill defective, they shall draw new bills without fee, or forfeit £5. with full costs; and all forfeitures shall be recovered by him that will sue for the same, by action of debt, &c. in any court of record. And the 25 Geo. 2. c. 36. Eng. recites (s. 11.) that many persons are deterred from prosecuting persons guilty of felony, upon account of the expense attending such prosecutions, &c.; and therefore provides, that it shall be in the power of the court before whom any person has been tried and convicted of any grand or petit larceny, or other felony, at the prayer of the prosecutor, and on consideration of his circumstances, to order the treasurer of the county in which the offence shall have been committed, to pay unto such prosecutor such sum as to said court shall seem reasonable, not exceeding the expenses which it shall appear to the court the prosecutor was put unto in carrying on such prosecution, making him a reasonable allowance for his time and trouble therein; which order the clerk of assize, or clerk of the peace, shall forthwith make out and deliver unto such prosecutor, upon being paid 1s. for the same; and the treasurer of the county shall, upon sight of such order, forthwith pay to such prosecutor, or other person authorized to receive the same, such sum as aforesaid, and shall be allowed the same in his accounts, But the 18 Geo. 3. c. 19. Eng. further provides (s. 7.) that it shall be in the power of the court before whom any person has been tried and convicted of any grand or petit larceny, or other felony, or before whom any person has been tried and acquitted of any grand or petit larceny, or other felony, in case it shall appear to the court that there was a reasonable ground of prosecution, and that the prosecutor

No clerk of assize, &c. to demand fee for discharge of recognizance of prosecutor.
10 & 11 W. 3. c. 23. s. 7 & 8. Eng.

Fees for drawing indictments limited.
25 Geo. 2. c. 36. s. 11. Eng.

Prosecutors of felonies may be ordered their expenses by court.

Court may order prosecutor his expenses, whether prisoner be acquitted or convicted.

hath

Prosecutor, if poor, to be also allowed for trouble, &c.

27 Geo. 2. c. 3. Eng.

Persons appearing on recognizance, to give evidence, may be ordered their expenses, &c.

18 Geo. 3. c. 19. s. 8. Eng.

hath *bona fide* prosecuted, to order, upon prayer of the prosecutor, the treasurer of the county, &c. in which the offence shall have been committed, or shall have been supposed to have been committed, to pay to such prosecutor, such sum as to said court shall seem reasonable, not exceeding the expenses which it shall appear to the court the prosecutor was, *bona fide*, put to in carrying on such prosecution, making, in case the prosecutor shall appear to be in poor circumstances, a reasonable allowance to such prosecutor for trouble and loss of time; which order the clerk of assize, or clerk of the peace, shall forthwith make out and deliver unto such prosecutor, upon being paid 1s. for the same; and the treasurer of said county, &c. shall, upon sight of such order, forthwith pay to such prosecutor, or other person authorized to receive the same, such sum as aforesaid, and shall be allowed the same in his account. And whereas the expense and loss of time in attending courts of justice, is a discouragement to the poorer sort to appear as witnesses against offenders, the 27 Geo. 2. c. 3. Eng. provides, that when any poor person shall appear on recognizance in any court to give evidence against another accused of any grand or petit larceny, or other felony, it shall be in the power of the court, at the prayer and on the oath of such person, and on consideration of his circumstances, in open court to order the treasurer of the county or place in which the offence shall have been committed, to pay unto such person such sum, as to said court shall seem reasonable, for his time, trouble, and expense; which order the proper officer of the court shall make out, and deliver unto such person, upon being paid 6d. for the same; and such treasurer shall, upon delivery of such order, forthwith pay to such person, or other person authorized to receive the same, such sum as aforesaid, and shall be allowed the same in his accounts. And the 18 Geo. 3. c. 19. s. 8. Eng. further enacts, that it shall be in the power of the court, where any person shall appear, on recognizance or *subpœna*, to give evidence as to any grand or petit larceny, or other felony, whether any bill of indictment be preferred or not, (provided

vided the said person shall, in the opinion of said court, *bona fide* have attended said court in obedience to such recognizance, &c. to order the treasurer of the county, &c. in which the offence shall have been committed, or shall have been supposed to have been committed,) to pay unto such person such sum as to said court shall seem reasonable, not exceeding the expenses which it shall appear to said court the said person was *bona fide* put unto by reason of said recognizance and *subpœna*, making, in case the said person shall appear to the court to be in poor circumstances, a reasonable allowance for trouble and loss of time; which order the clerk of assize, or clerk of the peace, shall forthwith make out and deliver to such person, upon being paid 6*d.* for the same; and the treasurer of said county, &c. shall upon sight of such order, forthwith pay to such person, or other person authorized to receive the same, such sum as aforesaid, and shall be allowed the same in his accounts.* The 3 Geo. 3. c. 28. Ir. recites (s. 18.) that many persons guilty of treason and felony, escape the punishment due to such crimes by the poverty of their prosecutors, who forfeit their recognizances rather than undergo the loss of their labour, and the unavoidable expense they must be at by attendance at the assizes; and enacts, that if the judges of assize and general gaol-delivery in any county, shall recommend such persons so attending to prosecute, as proper objects to have an allowance for their time and avocation from their labours, it shall be lawful for the grand juries of the respective counties, to present any sum, not exceeding 2*s.* per day, for such persons as shall be so detained from their business, and necessarily attending to prosecute.

Persons appearing on recognizance or subpœna to give evidence, may be ordered their expenses, &c. though no indictment preferred.

*Vule s. 9. ante p. 1156.

3 Geo. 3. c. 28. s. 18. Ir.

Judges may order grand juries to present to persons attending to prosecute, an allowance for their time, &c.

The following clauses of the 3 Geo. 3. c. 28. Ir. may be here also stated. This statute recites (s. 19.) that it often happens in criminal prosecutions at the several assizes, that the prosecutor shall appear at the first assizes, and the criminal make default; whereupon the recognizance of the first is at an end, and that of the offender is estreated; and at the next assizes the offender appears, and upon the non-appearance of the prosecutor

Where trial postponed prosecutors to be re-bound.

3 Geo. 3. c. 28. s. 19. Ir.

prosecutor

prosecutor, is acquitted; upon certificate of which acquittal his estreat is reduced to some inconsiderable sum; which matters are generally carried in by a combination between the criminal and the prosecutor; and therefore enacts, that in all such cases the judge of assize, upon the appearance of the prosecutor at the first assizes, and the non-appearance of the criminal, shall bind the prosecutor in a new or continue him on the former recognizance to appear at the next assizes; and the recognizance of such criminals shall not be reduced, unless it shall appear to the commissioners of reduction, that the person bound over to prosecute has been examined on the trial. This provision is peculiar to the law of Ireland.

No clerk of the crown to act as counsel or agent for prisoner.

3 Geo. 3. c. 28. s. 20. Ir.

It is also a provision of the 3 Geo. 3. c. 28. Ir. *supra*, that no person who is a clerk of the crown, shall appear in any suit at the prosecution of the crown, as counsel, attorney, or agent for the defendant. I have not found any similar clause in any English statute.

Where indictment ignored, or prisoner acquitted, &c. no fee to be taken by sheriff, &c.

14 Geo. 3. c. 20. s. 1. Eng.

* "Any crime or offence" in 23 & 24 Geo. 3. c. 34. Ir.

† "Any person who soever" in 23 & 24 Geo. 3. c. 34. Ir.

23 & 24 Geo. 3. c. 34. s. 2 & 3. Ir.

By the 14 Geo. 3. c. 20. Eng. every prisoner who shall be charged with [*any felony, or other crime, or as an accessory thereto,] before any court of criminal jurisdiction within England and Wales, against whom no bill of indictment shall be found by the grand jury, or who on his trial shall be acquitted, or who shall be discharged by proclamation, for want of prosecution, shall be immediately set at large in open court, without the payment of any fee to [†the sheriff, gaoler, or keeper of the gaol or prison, in respect of such discharge.] And the 23 & 24 Geo. 3. c. 34. I. contains a similar clause: but provides (s. 3.) that nothing in this act shall prevent any judge of assize, or commissioner of *oyer and terminer* and gaol-delivery, from ordering any prisoner to be transmitted to any other county, when he shall appear to such judge to be charged with any crime, or to extend to the discharge of any prisoner against whom there shall be any other bill of indictment ordered by the court to be sent up to the grand jury. And these statutes differ also as to their respective modes of compensating gaolers for the fees so abolished. And by the 4 Ann. c. 10. Ir. as amended by the 3 Geo. 2. c. 9. s. 2. Ir. no fee, or
sum

sum of money, shall be demanded or received by any sheriff, sub-sheriff, clerk of the crown, clerk of the peace, or their deputies, or any other person, on account of any bill [*or judgment,] that shall be returned *ignoramus* by the grand jury, from any person to whom the said bill shall be so returned; or on account of any recognizance, discharge, or other pretence relating to such bill, &c.; and if such officer or his deputy, or other person, shall offend herein, he shall forfeit £20. to be recovered by action of debt in any of the Four courts in Dublin, or by civil bill with costs of suit.† By the 32 Geo. 3. c. 45. s. 4. Eng. any of his majesty's judges at the assizes, and the justices at the general or quarter sessions, or any justice of peace, may order any convict, upon his discharge from prison, to be conveyed by pass under hand and seal, in manner directed by the 17 Geo. 2. c. 5. *ante* p. 776-7. and according to the provisions therein contained; and they are also empowered to convey by pass any person who shall be acquitted at the assizes, or general or quarter sessions, or discharged by proclamation or otherwise, who shall by himself, or any other in his behalf, apply to the court whereat he has been acquitted or discharged, or to any justice of peace, to be conveyed as aforesaid; and such justice, &c. shall certify in such pass that the person so conveyed was discharged from prison, or a person acquitted, or otherwise discharged, at the assizes or sessions, as the case may be; and such convict, or person acquitted or discharged, shall pay no fee for such pass.

4 Ann. c. 10.
s. 1. Ir.

3 Geo. 2. c. 9.
s. 2. Ir.

*No fees on bill,
&c. returned
ignoramus.*

32 Geo. 3. c. 45.
s. 4. Eng.

*Judges, &c.
may order per-
sons discharged
from prison, or
by proclamation,
to be conveyed
by a pass.*

The 21 Hen. 8. c. 11. Eng. enacts, that if any felon do rob, or take away any money, goods, or chattels, from any the king's subjects within this realm, and be indicted, arraigned, and found guilty thereof, or otherwise attainted, by evidence given by the party so robbed, or owner of the money, &c. or by any other by their procurement, the party so robbed, or owner, shall be restored to his money, &c.; and the justices of gaol-delivery

*Restitution of
goods awarded,
where felon con-
victed.*

21 Hen. 8. c. 11.
Eng.

* This seems to be a misprint of the words "of indictment."

† The exception of indictments for treason, misprision of treason, felony, or *præmunire*, in the 4 Ann. c. 10. is not contained in the 3 Geo. 2. c. 9.

delivery, and other justices, before whom such felon shall be so found guilty, &c. shall have power to award, from time to time, writs of restitution for the said money, &c. in like manner as though such felon were attainted at the suit of the party in appeal. The 28 Hen. 8. c. 10. Ir. is the corresponding statute in Ireland. And the 3 & 4 Ph. & M. c. 6. Ir. further enacts, that in case the party from whom any goods shall be stolen, or his executors, cannot come by the goods so stolen, he, or his executors, shall have of the felon's goods that stole his goods, and shall be attainted, condemned, or pardoned, or have fled for the same, to the value of the goods from him stolen, to be delivered to him or his executors, by the sheriff, or other person having the possession of the same; and the sheriff, &c. shall be discharged for so much as he shall so deliver, against the crown: and if such sheriff, &c. will refuse to deliver to the party, &c. of the said felon's goods, to the value of the goods stolen, he shall forfeit to such party, &c. the value of the said stolen goods, in case there came so much in value to his hands; for which the said party, &c. shall have an action of debt against the said sheriff, &c. to whose possession the said goods came as aforesaid.

If goods stolen cannot be found, owner reprised out of felon's goods.

CHAP. XXV.

Of the Benefit of Clergy.

For what offences clergy demandable.

25 Edw. 3. st 3. c. 4. E. & I.

AS to the offences for which the benefit of clergy was anciently demandable; the 25 Edw. 3. st. 3. c. 4. E. & I. declares or enacts, that all clerks which shall be convicted before secular justices, for any treasons or felonies touching other persons than the king himself, or his royal

royal majesty, shall have the privilege of holy church. And by the 4 Hen. 4. c. 2. E. & I. if any clerks shall be indicted, arraigned, or appealed, and their indictments, &c. do comprehend the effect of the words *insidiatores viarum* and *depopulatores agrorum*, or other words to the like effect, yet they shall have the privilege of holy church. But the 4 Hen. 7. c. 13. E. & I. is the foundation of the law respecting the privilege or benefit of clergy, as it stands at the present day. This statute enacts, that every person, not being within holy orders, who hath been admitted to the benefit of his clergy, *erstsoons* arraigned of any such offence, shall not be admitted to the benefit of clergy: And every person so convicted for felony, shall be marked upon the brawn of the left thumb, with a T. and such mark to be made by the gaoler openly in the court before the judge. Provided that if any person at the second time of asking his clergy, because he is within orders, hath not then and there ready his letters of his orders, or a certificate of his ordinary witnessing the same, then the justices before whom he is arraigned, shall give him a day, by their discretion, to bring in his letters or certificate; and if he bring not at such day his said letters, &c. then such person to lose the benefit of clergy, as he shall do that is without orders. And the 1 Edw. 6. c. 12. Eng. (which is held to supersede the 28 Hen. 8. c. 1. s. 7. Eng. and 32 Hen. 8. c. 3. s. 8. Eng. by which the distinction between learned laymen and real clerks in orders was abolished) enacts, (s. 14.) that in every case where any of the king's subjects may, upon his prayer, have the privilege of clergy as a clerk convict, that may make purgation; and also in all cases of felony wherein the privilege of clergy is restrained by this act: (*viz.* house-breaking, highway-robbery, horse-stealing, and robbing of churches, *vide* p. 922. 977. 995. 1000.) wilful murder and poisoning of malice prepensed excepted, every lord of parliament, and peer of the realm, having place and voice in parliament, shall, upon his request or prayer, alleging that he is a lord or peer of the realm, and claiming the benefit of this act, though he cannot

4 Hen. 4. c. 2.
E. & I.

4 Hen. 7. c. 13.
E. & I.

*Any layman
once admitted to
the benefit of
clergy, shall not
have it a second
time.*

*Persons praying
the benefit of
clergy how
marked.*

*Clerical persons
to produce let-
ters of orders or
certificate of
ordinary.*

1 Edw. 6. c. 12.
s. 14. Eng.

*Lords and peers
how and in what
cases admitted
to the benefit of
clergy.*

3 Edw. 1. c. 2.
E. & I.

*Canonical trial
or purgation for
clerks in orders.*

18 Eliz. c. 7.
s. 2. Eng.

*Canonical trial,
&c. abolished.*

s. 3.

*Proviso as to
imprisonment of
persons praying
the benefit of
clergy*

11. 12 & 13 Jac. 1.
c. 3. Ir.

5 Ann. c. 6.
s. 4. Eng.

*Benefit of clergy
extended to un-
learned laity.*

9 Ann. c. 6.
s. 1. Ir.

21 Jac. 1. c. 6.
Eng.

*Punishment of
women where
convicted of lar-
ceny that is
clergyable.*

cannot read, without any burning in the hand, loss of inheritance, or corruption of his blood, be adjudged, taken and used, for the first time only, as a clerk convict, without any further benefit at any time after. No Irish statute contains any provision similar to this of the 1 Edw. 6. c. 12. *supra*: but it seems that by one of the articles of the act of union (*vide* vol. 1. p. 357-8.) this privilege of British peers is extended to the peers of Ireland. It was provided by the 3 Edw. 1. c. 2. E. & I. that when a clerk was found guilty of felony, and demanded by the ordinary, he should be delivered to him according to the privilege of holy church: and the prelates were thereby enjoined not to deliver them without due purgation. But by the 18 Eliz. c. 7. s. 2. Eng. every person that shall be admitted to the benefit of clergy, shall not thereupon be delivered to the ordinary, as hath been accustomed, but after such clergy allowed, and burning in the hand according to the statute in that behalf provided, shall forthwith be enlarged out of prison by the justices before whom such clergy shall be granted. Provided (s. 3.) that the justices before whom such allowance of clergy shall be had, may, for the further correction of such persons, detain them in prison for such time as such justices shall think convenient, so as the same do not exceed one year's imprisonment. And the 11. 12 & 13 Jac. 1. c. 3. Ir. contains the like provisions. And with respect to the unlearned laity; the 5 Ann. c. 6. Eng. enacts (s. 4.) that if any person be convicted of any felony for which he ought to have had the benefit of clergy if this act had not been made, and shall pray to have the benefit of this act, he shall not be required to read, but, without any reading, shall be reputed to be, and punished as a clerk convict. And the same provision is contained in the 9 Ann. c. 6. Ir. With respect to female convicts, the 21 Jac. 1. c. 6. Eng. enacts, that any woman being convicted by confession or verdict, of the felonious taking any money or goods above the value of 12*d.* and under the value of 10*s.* or as accessory to such offence, (the said offence being no burglary nor robbery in or near the highway, nor

nor the felonious taking of any money or goods from the person of any man or woman privily, without their knowledge, but only such offence as in the like case a man might have his clergy) shall, for the first offence, be branded or marked in the hand upon the brawn of the left thumb, with a hot burning iron having a Roman T. upon said iron; the said mark to be made by the gaoler openly in court before the judge; and also to be further punished by imprisonment, whipping, stocking, or sending to the house of correction, in such manner, and for such time, (not exceeding a year) as the judge before whom she shall be so convicted, or who shall have authority in the cause, shall think meet, according to the quality of the offence, and then to be delivered out of prison. The 10 Car. 1. st. 3. c. 16. Ir.

is the corresponding statute in Ireland. The 3 W. & M. c. 9. Eng. further enacts, (s. 6.) that where a man being

convicted of any felony for which he may demand the benefit of clergy; if a woman be convicted of the same or like offence, upon her prayer to have the benefit of this statute, judgment of death shall not be given against her upon such conviction, or execution awarded upon any outlawry for such offence, but she shall suffer the same punishment as a man should suffer that has the benefit of clergy allowed him in the like case: viz. to be burned in the hand by the gaoler in open court, and further to be kept in prison for such time, not exceeding a year, as the justices shall think fit. And the 9 W. 3.

c. 7. Ir. contains the like provision. And the 4 & 5 W. & M. c. 24. Eng. explains the 3 & 4 W. & M. c. 9. *supra*, by declaring and enacting, that if any woman shall be convicted of any felony, for which a man might have the benefit of clergy, and upon her prayer shall have once had the benefit of the said statute, and shall be again convicted of any other felony, for which a man might have the benefit of his clergy, such woman shall be excluded from the benefit of said statute, and shall suffer death as if said statute had not been made. And

the 9 Ann. c. 6. Ir. also enacts, that no woman convict of felony, who shall have had the benefit of the 9 W. 3.

10 Car. 1. st. 3. c. 16. Ir.

3 W. & M. c. 9. s. 6. Eng.

Women to have the benefit of clergy as men.

9 W. 3. c. 7. s. 6. Ir.

4 & 5 W. & M. c. 24. s. 13. Eng.

Women having once had the benefit of the statute, not admitted thereto a second time.

9 Ann. c. 6. s. 7. Ir.

c. 7. Ir.

8 Eliz. c. 4.
s. 4. Eng.

*Allowance of
benefit of clergy
for one offence,
no bar to a pro-
secution for a
capital felony
previously com-
mitted:*

18 Eliz. c. 7.
s. 5. Eng.

*Nor for any
other felony
whereof the
party shall
not be before
acquitted, &c.*

15 Car. 1. c. 7.
s. 1. Ir.

*Clerks of the
crown, &c. shall
certify into
king's bench a
transcript of in-
dictment, &c.
containing
names, &c. of
parties convict-
ed, &c.*

34 & 35 Hen. 8.
c. 14. s. 2 & 3.
Eng.

c. 7. Ir. *supra*, shall be entitled to the benefit of the said last mentioned act again, but shall suffer such pains and penalties as she would have been liable unto if said act had not been made. And it is a provision of the 8 Eliz. c. 4. Eng. which extends to all descriptions of persons, and to felonies in general, that every person which shall, upon his arraignment for any felony, be admitted to the benefit of clergy, and shall before such admission have committed any other such offence whereupon clergy is not allowable, and not being thereof before indicted and acquitted, convicted or attainted, or pardoned, may be indicted or appealed for the same, and thereupon put to answer, and ordered, &c. in like manner as though no such admission of clergy had been. And by the 18 Eliz. c. 7. s. 5. Eng. every person which shall be admitted to the benefit of clergy, shall, notwithstanding such admission, be put to answer all other felonies whereof he shall not be before acquitted, convicted, attainted, or pardoned, and shall in such manner be arraigned, tried, adjudged, and suffer such execution for the same, as if as clerk convict he had been delivered to the ordinary, and there had made his purgation: To which clause of the 18 Eliz. c. 7. the 15 Car. 1. c. 7. Ir. contains a corresponding provision.

And for that it hath not been known certainly whither to resort for the records of attainders and convictions, because they were not certified into any place certain, such offenders had often had the benefit of clergy where they ought not, &c.;" the 34 & 35 Hen. 8. c. 14. Eng. enacts, that the clerk of the crown, clerks of the peace, and clerks of assize, where any such attainder or conviction of clerks, &c. shall be had, shall certify a transcript briefly containing the effect of every such indictment, outlawry or conviction, and clerk attainted before them, that is to say, the name, surname, and addition of every such person so indicted, &c. and the certainty of the offence, &c. and the day and place of his outlawry, conviction and attainder, and the day and place where such offence, &c. was done, before the king in his bench at Westminster, there to remain of record

record for ever, within 40 days after such attainder, &c. if the term be then, and if not, then within 20 days after the next term following the said 40 days, upon pain to forfeit 40s. one moiety to the king, and the other to him that will sue for the same by action of debt, &c. in any court of record. And the clerk of the crown in the king's bench shall receive the said certificates and transcripts without taking any thing for the same, upon pain of 40s, to be recovered by action of debt, &c. in any court of record. And by s. 3. if there be more persons named in such indictment, other than such person so attainted, convicted, or outlawed, such clerk of the crown, &c. shall certify the transcript of such indictment, &c. only concerning such persons so indicted, attainted, outlawed, or convicted, into the king's bench. And by s. 4. the clerk of the crown in the king's bench, at such times as the justices of gaol-delivery, or justices of peace, write unto him for the names of such persons attainted by outlawry, or clerks attainted or convicted, shall certify such names, upon pain to forfeit for every name 40s. By s. 5. this act shall not extend to Wales, Chester, Lancaster, and Durham. And forasmuch as men and women who have once had their clergy, &c. may be indicted for an offence committed afterwards in some other county, the 3 W. & M. c. 9. Eng. enacts, that the clerk of the crown, clerk of the peace, and clerk of the assizes, where such man or woman shall be convicted, shall, at the request of the prosecutor, or any other in his majesty's behalf, certify a transcript in a few words, containing the effect and tenor of every indictment and conviction of such man or woman, of his or her having the benefit of clergy, &c. and addition of every such person, and the certainty of the felony and conviction, to the judges and justices in such other county where such person shall be indicted; which certificate being produced in court shall be sufficient proof that such person hath before had the benefit of clergy, &c. The 9 W. 3. c. 7. Ir. contains a clause corresponding to this of the 3 W. & M. c. 9. Eng. And the 9 Ann. c. 6. Ir. more generally provides, that the clerk of the crown, or clerks of the peace, or their deputies, then officiating

s. 4.

Clerk of the crown to certify names of convicts to justices.

s. 5.

Proviso as to Wales, &c.

3 W. & M. c. 9. s. 7. Eng.

Clerk of crown, &c. of county where person has had the benefit of clergy or statute, to certify it to the county where subsequent felony committed.

9 W. 3. c. 7. Ir.

9 Ann. c. 6. s. 5. Ir.

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ing where such men or women as once had the benefit of the 9 W. 3. c. 7. shall have been convicted, shall, at the prayer of any person on her majesty's behalf, certify a transcript briefly containing the effect of any indictment and conviction of such men or women, and of their having had the benefit of clergy, or of the said former statute, or of this statute; and also shall certify the addition of every such person, and the certainty of the felony and conviction, to the justice or justices of the county where such person shall be indicted; which certificate being produced in court, shall be a sufficient proof that such persons were formerly convicted of the offences therein mentioned, and that they have already had the benefit of clergy, or of this or the former statute, in the same manner as if the record were produced.

Court may substitute transportation for burning in the hand or whipping, in convictions for larceny

4 Geo. 1. c. 11. s. 1. Eng.

* By 6 Geo. 1. c. 23. s. 2. Eng.

s. 3.

Contract to be entered into for effectually transporting such persons.

By the 4 Geo. 1. c. 11. Eng. as amended by the 6 Geo. 1. c. 23. Eng. where any person shall be convicted of grand or petit larceny, or any felonious stealing or taking of money or goods, within the benefit of clergy, and liable only to burning in the hand or whipping, (except persons convicted for receiving or buying stolen goods knowing them to be stolen,) the court before whom he shall be convicted [*or any subsequent court, with like authority, held for the same county, &c. where such offender was convicted,] instead of ordering him to be burned in the hand or whipped, may order him to be sent as soon as conveniently may be, to some of his majesty's plantations in America, for 7 years; and shall have power to convey, transfer, and make over such offender, by order of court, to the use of any person who shall contract for the performance of such transportation, to him and his assigns for 7 years. And by s. 3. every person to whom any court shall so order such offender to be transferred, &c. before he shall be delivered over to such person, or his assigns, to be transported, shall contract with such person as shall be ordered by the said court or judge, and give security to the satisfaction of the court, that he will transport (or cause, &c.) effectually such offender, to such of his majesty's plantations in America as shall be ordered by said

said court, and procure an authentic certificate from the governor or the chief custom-house officer of the place, (which certificate they are required to give forth-with without fee) of the landing of such offender in the place whereto he shall be ordered, (death and casualties of the sea excepted,) and that no such offender shall be suffered to return from said place to any part of Great Britain or Ireland, by the wilful default of such person so contracting, or his assigns. And by s. 2. if any offender so transported for 7 years, [*or 14 years,] shall return into Great Britain or Ireland, before the end of his term, he shall be liable to be punished as a person attainted of felony without benefit of clergy; and execution may be awarded accordingly. Provided that the king may pardon and dispense with such transportation, and allow of the return of any such offender from America, he paying his owner or proprietor, at the time of such pardon or dispensation, such sum as shall be adjudged reasonable by any 2 justices of peace residing within the province where such owner dwells; and where any offender shall have served his term according to the order of such court, such service shall have the effect of a pardon. And by the 19 Geo. 3. c. 74. s. 1. Eng. when any person at any session of *oyer and terminer*, or gaol delivery, or at any quarter or other general session of the peace, to be holden for any county, &c. within England, or at any great session to be holden for Chester, or within Wales, shall be convicted of grand or petit larceny, or any other crime for which he is liable to be transported to his majesty's colonies in America, it shall be lawful for the court before which such person hath been convicted, or any court holden for the same place with like authority, to order and adjudge that such person shall be transported to any parts beyond the seas, whether the same be situated in America or elsewhere, in such manner, and for any term of years not exceeding the term for which such person is so liable to be transported to America. And by s. 2. when any such convict shall be ordered to be transported to any parts beyond the seas, or if his majesty shall pardon any such

s. 2.

Returning from transportation a capital felony.

* Vide p. 588.

Proviso.

19 Geo. 3. c. 74. s. 1. Eng.

Court may order transportation to any parts beyond the seas, instead of America.

s. 2.

Provisions of former acts against returning from transportation extended to this.

24 Geo. 3. st. 2. c. 56. s. 1. Eng.

King and council, may order any offender liable to transportation to be transported to any place within or without his dominions.

s. 2.

Security to be given for the effectual transportation of such convicts.

offender convicted of any felony by which he is excluded the benefit of clergy, upon condition of transportation to any parts beyond the seas as aforesaid; in all such cases, all laws, &c. now in force with regard to the transportation of criminals to any of his majesty's colonies in America, and their punishment for being afterwards at large before the expiration of the term for which they were ordered to be transported, or had agreed to transport themselves, shall be in force, as if the same were specially inserted in this act. The 24 Geo. 3. st. 2. c. 56. Eng. further provides, that when any person, at any session of *oyer* and *terminer*, or gaol-delivery, or at any quarter or other general session of the peace, to be holden for any county, &c. within England, or at any great session for Chester or Wales, shall be lawfully convicted of grand or petit larceny, or any other offence for which such person shall be liable to be transported, it shall be lawful for the court before which such person shall be convicted, or any subsequent court holden at any place for the same county, &c. with like authority, to order and adjudge that such person shall be transported beyond the seas, for any term of years not exceeding the number or term for which such person shall be liable to be transported; and in every such case, it shall be lawful for his majesty, with the advice of his privy council, to appoint to what place, or part beyond the seas, either within his majesty's dominions, or elsewhere out of his dominions, such offender shall be conveyed or transported; and such court may order such offender to be transferred to the use of any person, and his assigns, who shall contract for the due performance of such transportation; and such person so contracting, or his assigns, shall have a property in the service of such offender, for such term. And by s. 2. every person to whom any such offender shall be transferred as aforesaid, shall, before he shall be delivered over to him, give security that he will transport, (or cause, &c.) effectually, such offender to such place or part beyond the seas, as shall be appointed by his majesty as aforesaid, and procure such evidence as the nature of the case will admit of the landing of such offender

fender, in the place, &c. to which he shall be ordered to be transported, (death and casualties by sea excepted,) and that he shall not be suffered to return to Great Britain or Ireland by the wilful default of the person so contracting, or his assigns. By s. 3. such court as aforesaid may appoint 2 justices of peace for the county, &c. where such offender shall have been convicted, who shall have power to contract with any person for the transportation of such offender, and to order such security to be taken as aforesaid, and also to cause such offender to be delivered by the gaoler in whose custody he shall be, to the person contracting, or his assigns; which contracts and security shall be certified by the justices who shall make and take the same, to the next court to be holden with like authority for said county, &c. to be filed and kept amongst the records of such court: And all securities for transportation shall be by bond, in the name of the respective clerks of the peace, or other clerks of the court, who shall prosecute such bonds in their own names; for which purpose, every such clerk of the peace, &c. shall be deemed a body corporate, and shall be paid all such costs as they shall sustain in such suit, as the justices of peace shall at their quarter sessions direct, out of the public stock; and all monies recovered on such bonds, shall be for the use of the respective county, &c. and be paid to the treasurer, to be part of the public stock: and all charges in or about making the contracts, taking securities, and conveying offenders to be transported, shall be borne by each county, &c. for which the court was held which ordered such offender to be transported; and the respective treasurers shall, by order of the justices in quarter sessions, pay all such charges to the persons employed. By s. 4. the person so contracting as aforesaid, and to whom any offender shall be delivered in order to be transported, or any person directed by the said justices (empowered to contract as aforesaid), or their assigns, may, in such manner as they shall think fit, carry and secure such offenders in and through any county of Great Britain, towards the sea-port or place from whence they are to be transported; and if any person shall rescue

s. 3.

Court may appoint 2 justices to contract for transportation of such convicts.

How such securities shall be passed and sued for.

s. 4.

Contractor or person authorized by justices may convey convict through any county to sea-port.

Rescuing convict a capital felony.

s. 5.

A capital felony to be at large within Great Britain or Ireland, after order or agreement for transportation.

Certificate of clerk of assize, &c. evidence of conviction and order for transportation.

Reward for prosecuting such offenders to conviction.

any such offender, or assist him in making his escape from such person as shall have him in his custody as aforesaid, he shall be guilty of felony without benefit of clergy. And by s. 5. if any offender who shall be so ordered by any such court as aforesaid, to be transported beyond the seas, or who shall agree to transport himself on certain conditions, either for life or any number of years, to any such place or part as shall be appointed by his majesty in manner aforesaid, shall be afterwards at large within Great Britain or Ireland, without some lawful cause, before the expiration of the term for which he shall have been ordered to be transported, [*or shall have agreed to transport himself as aforesaid,] such offender, being thereof convicted, shall suffer death without benefit of clergy; and such offender may be tried either before justices of assize, *oyer and terminer*, great sessions, or gaol-delivery, where such offender shall be apprehended, or from whence he was ordered to be transported; and the clerk of assize, clerk of the peace, or other officer or clerk of the court having the custody of the records where such orders of transportation shall be made, shall, at the request of the prosecutor, or any other on his majesty's behalf, make out and give a certificate in writing signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction of such offender, and of the order for his transportation, to the justices of assize, &c. where such offender shall be indicted, (not taking for the same, more than 2s. 6d.) which certificate shall be proof of the conviction and order for transportation: and whosoever shall discover and prosecute to conviction of felony without benefit of clergy, any such offender so being at large; shall be entitled to a reward of £20. for every offender so convicted; and shall have the like certificate, without fee or reward, as any person may be entitled unto for the apprehending and prosecuting to conviction persons who have committed any robbery upon the highway. Provided

* This refers to a clause which will be stated in another place.

Provided that the king may pardon and dispense with such transportation, and allow of the return of any such offender to Great Britain. The 6 Geo. 1. c. 23. Eng. 6 Geo. 1. c. 23. s. 6. Eng. contains clauses corresponding to those of the 24 Geo. 3. st. 2. c. 56. s. 2. 3 & 4. *supra*, with relation to such felons or offenders who may by virtue of the 4 Geo. 1. c. 11. *supra*, or this act, be transported: But with respect to the offence of returning from transportation, the 6 Geo. 1. c. 23. Eng. as amended by the 16 Geo. 2. c. 15. Eng. Felons ordered or agreeing to be transported, if afterwards at large within Great Britain, guilty capitally. more generally provides, that if any felon who shall be ordered for transportation by this or any other act, [*or who shall agree to transport himself on certain conditions to any of his majesty's plantations in America,] shall be afterwards at large within Great Britain, without some lawful cause, before the expiration of the term for which such felon was ordered to be transported, such person, being thereof lawfully convicted, shall suffer death, without benefit of clergy. And by s. 7. such offender may be tried either before justices of assize, *oyer and terminer*, or gaol-delivery for the county, &c. where he shall be apprehended, or before justices of assize, &c. for the county, &c. from whence he was ordered to be transported; and the clerk of assize and clerk of the peace where such orders of transportation shall be made, and their successors, shall, at the request of the prosecutor, or any other in his majesty's behalf, certify a transcript in a few words, containing the effect and tenor of every indictment and conviction, of such person, and of the order or contract for his transportation, to the justices of assize, &c. where such person shall be indicted, (not taking for the same above 2s. 6d.;) which certificate being produced in court, shall be proof that such person hath been before convicted, and ordered to be transported. And the 16 Geo. 2. c. 15. Eng. further provides, (s. 3.) that whosoever shall discover, apprehend, and prosecute to conviction of felony without benefit of clergy, any offender so found at large within Great Britain, shall be entitled to a reward of £20. for every offender so convicted, and shall have the like certificate and payments made without fee or reward, as any person may be entitled unto

*By 16 Geo. 2. c. 15. s. 1. Eng.

s. 7.

Such offenders where and how tried.

16 Geo. 2. c. 15. s. 3. Eng.

Reward for convicting such offenders.

43 Geo. 3. c. 15.
G. B.

His majesty may transfer convict without requiring security for his transportation.

24 Geo. 3. st. 2.
c. 56. s. 13.
Eng.

Court, or any 2 judges in vacation, may alter the place in order for transportation.

Violation of such new order as penal as of original.

unto, for apprehending, prosecuting, and convicting of highwaymen. The 43 Geo. 3. c. 15. G. B. further provides, that whenever his majesty shall give orders for the transportation, in any ships or vessels belonging to his majesty, of any offender who may be sentenced to be transported to any place within his majesty's dominions beyond the seas, it shall be lawful for his majesty, by any order under his sign manual, to give, if he shall think fit, to any person appointed in such order, a property in the service of such offender, for such term of life or years, or any part thereof, for which such offender was ordered to be transported, as to his majesty shall seem fit; and on such appointment, such offender may be delivered to the person so nominated, without any security being required or given for the transportation of such offender; and every person so appointed, and his assigns, shall have the like property in the service of such offender, as if such person had contracted and given security to transport such offender in the manner required by the 24 Geo. 3. st. 2. c. 56. Eng. The 24 Geo. 3. st. 2. c. 56. Eng. provides (s. 13.) that if any order shall be made for the transportation of any offender, and such order cannot be conveniently executed with respect to the place in such order mentioned, it shall be lawful for the court of king's bench, or for the court before which any such person hath been convicted, or any court holden for the same county, &c. having like authority, or (in the vacation time, and out of term) for any 2 judges of K. B. C. B. or Exc. of the decree of the coif, to order such offender to be transported to any other place beyond the seas, which shall be appointed by his majesty for the transportation of offenders, in like manner, and for the same term, as if transported to the place mentioned in the original sentence; and such order shall have the same effect as if such offender had been transported under the original order; and such offender shall be transferred, &c. to any person who will contract for the performance of such transportation, and to his assigns, in like manner as if such offender had been transported to the place mentioned in the original order; and such person so contracting

tracting, or his assigns, shall have a property in the service of said offender for the remainder of the term for which the offender was originally ordered to be transported; and if such offender so ordered for transportation shall be afterwards at large within Great Britain, without some lawful cause, before the expiration of the term for which such offender shall have been ordered to be transported, he shall be guilty of felony without benefit of clergy, and shall be tried before such judges, and in such manner, and the same evidence made use of for his conviction, as for the trial of other offenders found at large within this kingdom before the expiration of the term for which they were ordered to be transported; and whosoever shall discover and prosecute to conviction of felony without benefit of clergy, any such offender so being at large as aforesaid, shall be entitled to a reward of £20. for every such offender so convicted, and shall have the like certificate, without fee, as any person may be entitled to for the apprehending, and prosecuting to conviction, persons who have committed any robbery upon the highway. And by s. 9. the time during which any offender shall have continued in gaol under sentence of transportation, or (being removed under the provisions in s. 6. *post*) shall continue confined by virtue of this act, shall be taken in discharge or part discharge of the term of his transportation. By the 31 Geo. 3. c. 46. s. 7. Eng. it shall be lawful for the court by whom any offender shall be sentenced to transportation for crimes committed after 1 July 1791, or in the case of any offender to whom his majesty's royal mercy shall be extended on condition of transportation, or for any judge or justice of the court by or before whom such offender shall have been convicted, or any justice of K. B. C. B. or baron of Exc. being of the coif, or justice of *oyer and terminer*, or general gaol-delivery, or justices of peace at their quarter session, to order and adjudge that such person shall be imprisoned and kept to hard labour in the common gaol of the county where such offender shall have been convicted, until he be transported or otherwise removed according to law,

or

s. 9.

Time of convicts remaining in gaol under sentence of transportation, &c to be deducted from term of transportation.

31 Geo. 3. c. 46. s. 7. Eng.

Convict under rule of transportation, may be ordered to be imprisoned and kept to hard labour until transported.

Proviso.

s. 10.

*Such convicts to be separated from all prisoners except felons.**Court may substitute transportation for burning in the hand or whipping, in cases of larceny.*

6 Geo. 1. c. 12. s. 3. Ir.

s. 4.

A capital felony to return from transportation before time limited.

or until he by the expiration of the term of such sentence of transportation, or otherwise, shall be entitled to his liberty : Provided that the time during which such offender shall so continue confined, shall be reckoned in discharge or part discharge of the term of his transportation. And by s. 10. as long as any person under sentence of transportation shall continue in the common gaol, the gaoler shall separate such convict (as far as conveniently may be) from every person in his custody, except prisoners convicted of felony.

By the 6 Geo. 1. c. 12. s. 3. Ir. in analogy to the 4 Geo. 1 c. 11. Eng. *ante* p. 1220. if any person shall commit any grand or petit larceny, or feloniously steal or take away money, goods, or chattels, from the person or house of any other, for which such offender, as the law now stands, is entitled to the benefit of clergy, it shall be lawful for the court before whom he was convicted, or any court held at the same place with the like authority, if they think fit, instead of ordering such offender to be burned in the hand, or whipped, to order such offender to be sent to the next sea-port, city, or town, which trade to some of his majesty's plantations in America, that he may be transported (as soon as conveniently may be) to some of his majesty's colonies in America for 7 years ; and such court, &c. shall have power to convey, transfer, and make over such offenders, by order of court, to the use of any person [*who shall contract with the magistrates or officers having such offender in their custody for such transportation,] and to his assigns, for 7 years, to commence from the time of the offender's landing in America. And by s. 4. if any offender so ordered by any such court to be transported for 7 years, or other time, as aforesaid, shall return into any part of this kingdom before the end of his term, he shall be liable to be punished as a person attainted of felony without benefit of clergy ; and execution shall be awarded accordingly. And whereas the several counties in Ireland, in which felons ordered for transportation have

* *Vide* 26 Geo. 3. c. 24. s. 71. Ir. *post* p. 1230.

have been convicted and confined, have been at considerable expense in the support of such felons, and in their transmission to the sea-ports from which they have been transported, and in contracting for their transportation; the 26 Geo. 3. c. 24. Ir. provides (s. 67.) 26 Geo. 3. c. 24. s. 67. Ir. that the clerks of the crown and clerks of the peace in the several counties; shall make out and sign certificates of the names of every person remaining in the gaols of the several counties, under any rule, sentence, or order of transportation, made by the judges presiding in the courts wherein such clerks officiated, specifying therein the particular offences for which such persons were ordered to be transported; which certificates shall, within 30 days after the last day of every assizes or gaol-delivery, or quarter sessions, be transmitted by such clerks, &c. to the lord lieutenant. And by s. 68. it shall be lawful for the lord lieutenant, by his warrant, to require any sheriff having the custody of any person under sentence, &c. of transportation, to transmit such person to such port-town within this kingdom, as shall be expressed in such warrant, in order to be transported; and every such sheriff shall obey such warrant, and the sheriff of the county, &c. within which such port-town shall be, shall receive such person, and commit him to gaol, there to be kept as convict felons are kept, until he shall be transported; and every sheriff receiving such person, shall give a receipt under his hand to the sheriff. And by s. 69. it shall be lawful for the lord lieutenant at such times as he shall think necessary, not exceeding 4 times in a year, to cause a ship, &c. to be contracted for or engaged for the transportation of persons under sentence, &c. of transportation; and such person as shall be appointed by the lord lieutenant, shall contract with the masters or owners of such ship, &c. for the transportation to and landing of such person in some of his majesty's plantations in America, or to such other place out of Europe, as shall be expressed in such sentence, &c.; and every person who shall undertake to transport and convey such felons and vagabonds, shall, with 2 sufficient

Clerks of the crown, &c. to certify names, &c. of persons under rule of transportation.

When and where

s. 68.

Lord Lieutenant to issue his warrants to sheriffs to transmit convicts for transportation.

s. 69.

s. 70.

*Expenses of
transmitting,
&c. how defray-
ed.*

s. 71.

*Clauses in for-
mer acts re-
pealed.*

30 Geo. 3. c. 32
s. 1. Ir.

*Lord Lieutenant
may order felons
&c. under rule
of transporta-
tion, to be trans-
ported to any
part beyond the
seas.*

s. 2.

*Expenses how
defrayed.*

38 Geo. 3. c. 59.
Ir.

sufficient sureties, enter into such bond [*as is now required by law on such undertaking or contract.] And by s. 70. all such expenses as the lord lieutenant shall judge necessary for the transmission of such prisoners to the port from which they shall be transmitted, and in their maintenance there, and in providing ships, &c. for in the transporting of them, and other necessary expenses incident thereto, shall be defrayed by warrant of the lord lieutenant to the proper officer of the treasury. By s. 71. every clause in any act heretofore passed relating to the transmission of persons under sentence, &c. of transportation, or to the contracting for such transportation, or to presenting money to defray the expenses thereof, are repealed. The 30 Geo. 3. c. 32. Ir. also enacts, that it shall be lawful for the lord lieutenant to cause all felons and vagabonds, who shall be under any sentence, &c. of transportation, to be transported to such part beyond the seas, and in such manner, as he shall think proper. And by s. 2. all such expenses as the lord lieutenant shall judge to be necessary in providing for the transportation of such felons, &c. in pursuance of this act, and for the conveying them to such part as shall be appointed, and all other necessary expenses incident thereto, shall be defrayed by warrant of the lord lieutenant to the proper officers of the treasury in this kingdom. And the 38 Geo. 3. c. 59. Ir. further enacts, that it shall be lawful for the lord lieutenant, by instrument in writing signed by him or his secretary, to transfer all offenders who shall be under sentence or rule of transportation, and all offenders who shall obtain his majesty's

* This clause refers to the 17 Geo. 2. c. 4. Ir. which enacts, (s. 2.) that every person who shall contract pursuant to any of the acts for transporting felons or vagabonds, shall, with 2 solvent persons, enter into a bond or recognizance, to be deposited with the sheriff or such person with whom he shall contract, of the penalty of £10. for every felon, &c. so contracted for, conditioned to receive and take such felon, &c. from the sheriff, or gaoler, or other person in whose custody he shall be, and to convey him on board some ship, &c. then bound immediately for some part of his majesty's plantations beyond the seas, and to transport and land him into some part of the said plantations, unless prevented by the party's death, the casualties of the sea, or being taken by an enemy; which bonds or recognizances shall be delivered and disposed of as directed by the 2 Ann. c. 12. Ir.

majesty's pardon on condition of transportation, (except in cases where offenders shall obtain his majesty's pardon on condition of transporting themselves,) or to order the transfer of such offender, to any person, and his assigns, as the lord lieutenant shall think fit, for the same term for which such offender shall have been ordered to be transported, or as shall be specified in any such condition of pardon; and the person to whom such assignment shall be made, or his assigns, shall have a property in the service of such offender, for such term. Besides the clause of the 6 Geo. 1. c. 12. s. 4. *Ir. supra*, (and others to be found under particular heads,) relative to the offence of returning from transportation, the 8 Geo. 1. c. 9. *Ir.* enacts, (s. 1.) that if any felon or vagabond who shall be ordered to be transported pursuant to any of the statutes now in force in this kingdom, shall afterwards break gaol, or escape, or be at large within Ireland, without some lawful cause, before the expiration of the term for which such felon, &c. was ordered to be transported, such person, being thereof lawfully convicted, shall suffer death without benefit of clergy. And by s. 2. such offender shall and may be tried for said offence in any county in this kingdom; and the clerk of the crown and clerk of the peace where such orders of transportation shall be made, and their successors, shall, at the request of the prosecutor, or any other in his majesty's behalf, certify a brief abstract containing the effect and tenor of every indictment and conviction of such person, and of his order for transportation, to the justices of the king's bench, or justices of assize, *oyer* and *terminer*, or gaol-delivery, (or the justices of peace at their quarter sessions to be held for the county of Dublin, and county of the city of Dublin) where such person shall be indicted or presented, not taking for the same above 2s. 6d.; which certificate being produced in court, shall be proof that such person hath been before convicted as a felon, or presented as a vagabond, and ordered to be transported. And by s. 6. whosoever shall receive, harbour, or conceal any robbers or felons ordered to be transported, and who after such order for transportation

Lord Lieutenant &c. may transfer any person under rule of transportation to any person who shall thereby have a property in his service for the term

8 Geo. 1. c. 9. s. 1. Ir.

Persons under rule of transportation breaking gaol, &c. guilty capitally.

s. 2.

Such offenders where and how tried.

s. 6.

Harbouring such offenders, a capital felony.

12 Geo. 1. c. 8.
s. 6. Ir.

*Felons after
transportation
appearing at
large, guilty
capitally.*

s. 11.

Proviso.

40 Geo. 3. c. 44.
Ir.

*Persons return-
ing from trans-
portation or ex-
ile, though con-
victed by courts
martial, how
punished for 1st
offence.*

*Second offence a
capital felony.*

transportation shall have broke gaol or escaped, or been at large in this kingdom, without some lawful cause, before the expiration of the term for which such felons, &c. shall have been ordered to be transported, knowing them to be such, shall be guilty of felony without benefit of clergy. And the 12 Geo. 1. c. 8. Ir. further enacts, (s. 6.) that if any person who shall be transported as a felon convicted of a capital felony, shall be found within this kingdom, not being licensed thereunto by the king, under his privy seal, he shall suffer death as a felon without benefit of clergy; and shall and may be tried in any county where he shall be apprehended. Provided (s. 11.) that nothing herein shall extend to inflict the punishment of death on any person who shall receive his majesty's pardon upon condition of transportation for any limited time, or who shall be ordered by the king or lord lieutenant to be transported for any limited time, so as such person be not found in this kingdom before the time in such pardon or order limited be expired. The 40 Geo. 3. c. 44. Ir. recites, that it is necessary more effectually to prevent persons from returning to his majesty's dominions, who have been or shall be transported, banished, or by their own compact exiled for their treason and treasonable practices, whether they have been convicted by ordinary course of law, or by the laws of war, or by courts martial constituted under the authority of law; and therefore enacts, that if any person so transported or banished, or ordered for transportation, &c. or who in order to avoid prosecution for treason hath engaged to transport himself and to go into exile, and on such engagement being entered into hath not been prosecuted, shall return to this kingdom, or, after August 1800, be at large within this kingdom, within the time limited for his transportation, &c. unless by license from his majesty, his heirs or successors, he shall be deemed a felon, and shall, on conviction for the 1st offence, receive such corporal punishment as the court shall award, and be transported for his natural life, and if such person shall again return, or be at large within this kingdom, without such license as aforesaid, and be thereof convicted, he shall suffer death as a felon without benefit

benefit of clergy. The 17 Geo. 2. c. 4. Ir. enacts (s. 1.) 17 Geo. 2. c. 4. s. 1. Ir. that if any master of a ship who shall undertake to transport any felon or vagabond, who shall be ordered to be transported to any of his majesty's plantations in America, Master of a ship fraudulently violating his contract for transporting felons, &c. guilty capitally. shall fraudulently land or put on shore in any part of this kingdom, or any part of Europe, any such felons, &c. he shall be guilty of felony without benefit of clergy. And by s. 3. any offender against this act may be tried s. 3. Where tried. in any county of this kingdom.

By the 19 Geo. 3. c. 74. s. 3. Eng. when any person shall in any of the courts mentioned in s. 1. *ante* p. 1221. be convicted of any felony within the benefit of clergy, for which he is liable to be burned or marked in the brawn of the left thumb, it shall be lawful for such court, or any court holden for the same place with like authority, if such court shall think fit, instead of such burning, &c. to impose upon such offender such a pecuniary fine as to such court shall seem meet, or instead of such burning, &c. in any of the cases aforesaid, (except manslaughter) to order and adjudge that such offender shall be once, or oftener, but not more than 3 times, publicly or privately whipped; such private whipping to be inflicted in the presence of not less than 2 persons, besides the offender, and the officer who inflicts the same; and in case of female offenders, in the presence of females only; and such fine or whipping shall have the like effects to the party, with respect to any discharge from the same or other felonies, or any restitution to his estates, capacities, and credits, as if he had been burned or marked. Provided (s. 4.) that nothing in this act shall deprive any of said courts of the powers of detaining in prison, for any time not exceeding a year, or of committing to the house of correction or public work-house, to be kept to hard labour for any time not less than 6 months, or exceeding 2 years, any such offender; but that such offender may, if such court shall think fit, after such burning or marking, or after such whipping or fine, as shall by virtue of this act be inflicted, be so detained or committed, and with such accumulated punishment in case of escape from such house of correction, &c. as if this act had never been made. No Irish statute contains

Court may substitute fine or whipping for burning in the hand: 19 Geo. 3. c. 74. s. 3. Eng.

s. 4. And may order such person to be detained in gaol for a year, or 2 years in house of correction.

3 Geo. 2. c. 4
s. 6. Ir.

*Felons convicted,
though recom-
mended by grand
juries, shall be
either burned in
the hand or
transported.*

tains any similar provision: But the 3 Geo. 2. c. 4. Ir. recites (s. 6.) that in certain cases the grand juries have a power of recommending convict felons to mercy, and such felons now are burned in the hand and dismissed; and enacts, that such felons convicted, so recommended, shall be either burned in the hand, or transported to the plantations, in the common manner, at the discretion of the court or judge before whom such offender shall be convicted.

*Penitentiary
houses establish-
ed.*

19 Geo. 3. c. 74.
Eng.

The 19 Geo. 3. c. 74. Eng. contains several provisions relative to the penitentiary houses thereby directed to be built, and to the imprisonment of offenders in the mean time, till the completion of such buildings, in the respective houses of correction, or other proper places, in the respective counties, as a punishment to be substituted for transportation. So much of this act has been

24 Geo. 3. st. 2.
c. 56. s. 6. Eng.

*Offenders under
sentence of
death, but re-
prieved, or un-
der rule of
transportation,
may be removed
from gaol by the
king, or 3 jus-
tices, to any
other place of
confinement, &c.*

suffered to expire.* But the 24 Geo. 3. st. 2. c. 56. Eng. provides, (s. 6.) that it shall be lawful for his majesty, by an order in writing, to be notified by one of his principal secretaries of state, or for any 3 justices of peace acting in and for the county, &c. in which any gaol shall be situated, as shall be authorized by his majesty under his sign manual, to direct the removal of any male offender who shall be under sentence of death, but reprieved during his majesty's pleasure, or under sentence or order of transportation, and who, having been examined by an experienced surgeon or apothecary, shall appear to be free from any putrid or infectious distemper, and fit to be removed from the gaol or prison in which such offender shall be confined, to such place of confinement within England or Wales, either at land, or on board any ship or vessel in the river Thames, or any navigable or other river, or within the limits of any part of England or Wales, as his majesty, or any 3 such justices

* The 31 Geo. 3. c. 46. Eng. which authorizes the justices of peace in sessions to appoint a governor and other officers for every place of confinement used as a house of correction or penitentiary house, and to make rules for their government, refers however to the 19 Geo. 3. c. 74. Eng. and requires the justices in making such rules to have regard to the provisions therein contained.

justices, shall, from time to time, appoint, under the management of any overseer to be appointed by his majesty, or any 3 such justices; and every offender who shall be so removed shall continue in said place of confinement, or be removed to and confined in any other such place as his majesty, or any 3 such justices, shall appoint, until such offender shall be transported, or by the expiration of the term of such transportation, or otherwise, shall be entitled to his liberty, or until his majesty, or any 3 such justices, shall direct the return of such offender to the gaol, &c. from which he shall have been so removed; and the sheriff or gaoler having the custody of any offender whose removal shall be ordered as aforesaid, shall, with all convenient speed, after the receipt of the notification of such order, convey (or cause, &c.) every such offender to the place appointed, and there deliver him, together with a certificate containing his christian name, surname, and age, and also the offence for which, and the court in which he was convicted, and the purport of his sentence, to such overseer, who shall give a receipt in writing to the sheriff or gaoler, for the discharge of such sheriff, &c. *Duty of sheriff in such cases.*

And this act contains special provisions in respect to the powers and duties of such overseers. The 17 & 18 Geo. 3. c. 9. Ir. enacts, that when any male person shall at any session of *oyer and terminer*, or gaol-delivery, or at any quarter or other general sessions of the peace, for any county, &c. be convicted of grand or petit larceny, or any other crime, for which he shall be liable to transportation to any of his majesty's colonies in America, the court before whom such person shall be so convicted, or any court held for the same place with like authority, may, in the place of such punishment by transportation, order and adjudge that such person shall be kept to hard labour in raising sand, soil, and gravel from and cleansing the river Anna Liffey in the harbour of Dublin, or any other service for the benefit of the navigation of said river and harbour eastward of Essex bridge, under the direction of an overseer to be appointed by the

Duty of overseers to whom such offenders shall be there-upon delivered.

17 & 18 Geo. 3. c. 9. s. 1. Ir.

Court may substitute hard labour for transportation.

the justices of peace for the county of the city of Dublin, at their quarter or other general sessions, for the same term of years as the transportation for said offence might by law have been adjudged, or for such shorter term as such court shall think fit; provided that the same shall in no case be less than 3 years, or more than 10 years.

s. 3.

*Duty of clerk of
assize, &c. and
of sheriff or
gaoler, and
overseer there-
upon.*

And by s. 3. when any offender shall be ordered to be kept to hard labour as aforesaid, or as hereinafter is directed, the clerk of the assize, clerk of the peace, or other clerk of the court by which such order shall be made, shall give to the sheriff or gaoler having the custody of such offender, a certificate in writing under his hand, containing an account of the christian name, surname, and age of such offender, of his offence, of the court before whom he was convicted, and of the term for which he shall be so ordered to hard labour; and the sheriff or gaoler having the custody of such offender shall, with all convenient speed after the making such order, and receiving of such certificate, convey such offender, (or cause, &c.) to such place within this kingdom, and deliver him, together with said certificate, to such overseer as aforesaid; and the overseer to whom such offender shall be so delivered, shall give a proper receipt in writing under his hand, which shall be a discharge to such sheriff or gaoler. By s. 4. all expenses

s. 4.

*Expenses of con-
veying offender
how paid.*

incurred by any sheriff or gaoler in the conveyance of any such offender, shall be paid by the county, &c. for which the court ordering such punishment by hard labour shall be held; and the sheriff, &c. shall receive the money due for such expenses from the treasurer for such county, &c. by order of the justices of peace at their quarterly or other general session, who shall make such order accordingly. And whereas in many cases it might be inconvenient to send convicts, especially females and males who are weak and aged, to work as aforesaid, it is provided (s. 10.) that where any person shall at any session of *oyer and terminer*, or gaol-delivery, or at any quarter or other general session of the peace for any county, &c. be convicted of grand or petit lar-
ceny,

s. 10.

ceny, or other crime for which he shall be liable to transportation to any of his majesty's colonies in America, the court in which such offender shall be convicted, or any court held for the same place, and with like authority, may, in the place of such punishment by transportation, order and adjudge that such person shall be sent to some proper place of confinement within said county, &c. to be appointed by the justices of peace for every county, &c. at their quarter or general sessions of the peace (as required by s. 13.) there to be kept to hard labour for such term or number of years as such court shall appoint, not exceeding the term, &c. for which the transportation for said offence might have been adjudged: provided that the same shall not be less than 3 years, or more than 10 years. By s. 14.

Females, or male offenders if infirm, may be sent to house of correction, instead of being transported, &c.

if any person shall rescue any offender, who by force of this act shall be ordered to hard labour, or to the house of correction as aforesaid, either in his conveyance to the place appointed for such hard labour, or house of correction, or whilst such offender shall be in the custody of the person appointed for that purpose; or if any person shall be aiding or assisting in such rescue, or if any person not having the actual custody of such offender shall be aiding, &c. in any escape, or shall, by supplying arms or instruments of disguise or escape, or otherwise, be aiding, &c. in the attempt to make any such escape, such person, being convicted by indictment before any court of *oyer and terminer*, and general gaol-delivery, held in and for the place where such offence shall be committed, shall be adjudged and ordered to the same portion of hard labour or correction, as the person rescued or escaped, or attempted to be aided in any escape, had to serve or suffer at the time of such rescue, &c. By s. 15. if any person who shall be ordered to hard labour under this act, either in the river Liffey or harbour of Dublin, or at any place of confinement, shall, during the time for which he shall be so ordered to hard labour, break prison or escape from the place of his or her confinement, or from the person having the custody of such offender, he or she shall, on

s. 14.

Punishment for rescuing persons so ordered to the house of correction; or assisting therein.

s. 15.

Punishment for any person ordered to hard labour, escaping.

s. 16.

*Such offenders
where and how
tried.*

conviction for the 1st escape, be punished by doubling the term of the service and hard labour in which he or she was at the time of such escape; and on conviction for a 2nd escape be guilty of felony without benefit of clergy. And by s. 16. every offender escaping as aforesaid, shall be tried before the justices of assize, *oyer and terminer*, or gaol delivery for the county, &c. where he shall be apprehended; and the clerk of assize and clerk of the peace where such orders of confinement or hard labour shall be made, shall, at the request of the prosecutor, or any other in his majesty's behalf, certify a transcript briefly containing the effect of every indictment and conviction of such person, and of the order made for his or her confinement, or being sent to hard labour, to the justices of assize, *oyer and terminer*, and gaol delivery, where such person shall be indicted for such escape, not taking for the same above 2s. 6d.; which certificate being produced in court, shall be sufficient proof that such person hath before been convicted and ordered to such place of confinement or hard labour. By s. 17. the clerk of the court, and sheriff

s. 17.

*Clerk of court,
sheriff, and
gaoler, how
paid.*

s. 18.

*Offenders herein
to be kept sepa-
rate, except
from felons, &c.*

or gaoler, shall be paid by the treasurer of the county, &c. the like satisfaction as hath been usually paid for the order of transportation of any offender. And by s. 18. the offenders which shall be sent to and by virtue of this act directed to be confined in such places as aforesaid, shall be kept separate from, and shall not be permitted to intermix with any person confined for any offence under the degree of petit larceny, or other crime not making the person having committed the same sub-

32 Geo. 3. c. 27.
s. 1. Ir.

*Lord lieutenant
may appoint pe-
nitentiary houses
for reception of
persons under
rule of trans-
portation.*

ject to transportation. And the 32 Geo. 3. c. 27. Ir. further provides, that it shall be lawful for the lord lieutenant to appoint one house or more for the reception of persons under sentence or rule of transportation, or pardoned on condition of transportation, to be called penitentiary houses; and the lord lieutenant may order any person under sentence or rule of transportation, or pardoned on condition of transportation, to be confined in such penitentiary house, for any term not exceeding the term for which such person shall be, at the time of signing

signing such warrant, under rule to be transported, there to be kept at hard labour or employment, in such manner as the keeper of such house shall think most suited to render such persons industrious and useful members of society. Provided (s. 2.) that it shall be lawful for the lord lieutenant, by warrant under his hand, to order any person confined as aforesaid in any such penitentiary house, to be removed from thence to the common gaol, and to be transported for the residue of the term of transportation, according to the sentence or rule, as if he had never been committed to the penitentiary house. And by s. 3. if any person confined in such penitentiary house shall escape from such penitentiary house, without the order of the lord lieutenant, before the time for which he was under sentence, &c. of transportation be expired, and be found at large in this kingdom, such person shall suffer such punishment as a person duly transported and returning to this kingdom is now liable to suffer. And by s. 4. if any person shall receive any person duly confined in such penitentiary house, or assist in breaking open the same, in order to free any person therein duly confined, or shall assist any person so confined in making his escape therefrom, such offender shall be guilty of felony without benefit of clergy.

s. 2.

Or after confinement therein, order transportation for residue of term.

s. 3.

Persons escaping from such penitentiary houses how punished.

s. 4.

Harbouring such offenders, or assisting in their escape, a capital felony.

CHAP. XXVI.

Of Judgment and its Consequences.

*Judgment
against women
convicted of
treason*

30 Geo. 3. c. 48.
s. 1. Eng.

s. 2.

*Women con-
victed of petit
treason, &c. to
be sentenced, &c.
as persons con-
victed of murder*

s. 4.

*Women con-
victed of high
treason, &c. to
be liable to the
like forfeitures,
&c. as hereto-
fore.*

THE *judgment* required by law to be given against women in cases of high treason or petit treason, is done away by the 30 Geo 3. c. 48. Eng. which enacts, that the judgment to be awarded against any woman, convicted of high treason or petit treason, or of abetting, procuring, or counselling any petit treason, shall not be that such woman shall be drawn to the place of execution, and be there burned to death; but that such woman shall be drawn to the place of execution, and be there hanged by the neck until she be dead. And by s. 2. if any woman shall be convicted of petit treason, or of abetting, procuring, or counselling any petit treason, such woman shall be liable to such further pains and penalties as are specified with respect to persons convicted of wilful murder, in the [*25 Geo. 2. c. 37. Eng.] *ante* p. 904, &c.; and the court before whom such woman shall be convicted, shall pass sentence at such time, and shall give such orders with respect to the time of execution, the disposal of the convict's body after execution, and all such other matters, as are directed to be given by said act, with respect to persons convicted of wilful murder. And by s. 4. whenever any woman shall be convicted of high treason, or petit treason, or of abetting, procuring, or counselling any petit treason, and judgment shall be given thereon according to the directions of this act, then such woman being so attainted, shall be subject to such forfeitures, and corruption of blood, as if attainted of the like crime before the

* 31 Geo. 3. c. 17. Ir. here referred to in 36 Geo. 3. c. 31. Ir.

the passing of this act. The 36 Geo. 3. c. 31. Ir. is the 36 Geo. 3. c. 31. Ir. corresponding statute in Ireland.

II. The provision of the Great Charter, 9 Hen. 3. §. 2. c. 14. E. & I. respecting *amercements*, which regulates How men shall be amerced, and by whom. or influences the reasonableness of *finer* in criminal cases, is, that a freeman shall not be amerced for a small offence, but according to the quality of it, and for a great offence in proportion to the magnitude of it, saving to him his contenment; and a merchant likewise, saving to him his merchandize, [and any other's villain than the king's, saving his wainage.] And none of said amercements shall be assessed, but by the oath of honest and lawful men of the vicinage. Earls and barons shall not be amerced but by their peers, and according to the nature of their offence. And no man of the church shall be amerced after the quantity of his spiritual benefice, but according to his lay tenement, and to the quantity of his offence. The 3 Edw. 1. c. 6. E. & I. also enacts, 3 Edw. 1. c. 6. E. & I. that no borough, city, town, or man, shall be amerced without reasonable cause, and according to the quantity Amercements to be reasonable. of the trespass: *viz.* every freeman saving his contenment, a merchant saving his merchandize, [a villain saving his wainage,] and that by their peers. And by the 34 Edw. 3. c. 1. E. & I. fines which are to be made 34 Edw. 3. c. 1. E. & I. before justices for a trespass done by any person, shall be reasonable and just, having regard to the quantity of the trespass, and the causes for which they be made. And it is declared by the Bill of Rights, 1 W. & M. st. 2. c. 2. Eng. that excessive fines ought not to be imposed, 1 W. & M. st. 2. c. 2. Eng. nor cruel and unusual punishments inflicted; and further, that all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void. Fines and punishments to be moderate.

III. With respect to *forfeitures*; It was declared by §. 3. the Great Charter, 9 Hen. 3. c. 22. E. & I. that the Forfeitures of felons. king should not hold the lands of persons convict of felony, but a year and a day, and then that those lands 9 Hen. 3. c. 22. E. & I. should be delivered to the lord of the fee. And the 17 17 Edw. 2. st. 1. c. 16. E & I. Edw. 2. st. 1. c. 16. E. & I. further declares or enacts, that the king shall have the goods of all felons attainted, and

and fugitives, wheresoever they be found. And if they have any freehold, it shall be taken into the king's hands, and the king shall have the profits of the same for a year and a day; and the land shall be wasted and destroyed in the houses, woods, and gardens, and in all things belonging to the same land. And after the king hath had the year, day, and waste, then the land shall be restored to the chief lord of the fee, unless that he fine before with the king for the year, day, and waste. The

26 Hen. 8. c. 13.
s. 5. Eng.

*Forfeitures in
high treason.*

5 & 6 Edw. 6.
c. 11. s. 9. Eng.

28 Hen. 8. c. 7.
s. 4. Ir.

33 Hen. 8. c. 20.
s. 2. Eng.

*Attainder of
treason by the
common law
shall be of as
good force as by
act of parlia-
ment.*

s. 3.

27 Eliz. c. 1.
s. 9. Ir.

26 Hen. 8. c. 13. Eng. enacts, (s. 5.) that every offender being convicted of any manner of high treason, by presentment, confession, verdict, or process of outlawry, according to the course of the [*common law,] shall forfeit to the king all such lands, tenements, and hereditaments, which such offender shall have of an estate of inheritance, in use or possession, within England, or any of the king's dominions, at the time of such treason committed, or any time after. [*Saving to every person, their heirs and successors, all rights, &c. which they shall have at the day of committing such treasons, or at any time before.] The 5 & 6 Edw. 6. c. 11. Eng. contains a similar clause. And the like clause is also contained in the 28 Hen. 8. c. 7. Ir. And the 33 Hen. 8. c. 20. Eng. further enacts (s. 2.) that if any person shall be attainted of high treason by the common laws or statutes of this realm, such attainder by the common law, shall be of as good effect, as if it had been done by authority of parliament; and the king shall have as much benefit by such attainder, as well of uses, rights, entries, conditions, as possessions, reversions, remainders, and other things, as if it had been done and declared by authority of parliament; and shall be deemed and adjudged in actual possession of the lands, &c. and all other things of the offenders so attainted, which he ought to have if the attainder had been by authority of parliament, without any office or inquisition to be found of the same. Saving (s. 3.) to every person, &c. their rights, &c. And the 27 Eliz. c. 1. Ir. also enacts (s. 9.) that

* The words within the crotchets are not contained in the 5 & 6 Edw. 6. c. 11. Eng.

that every offender being convict of any high treason by act of parliament, presentment, confession, verdict, or process of outlawry, according to the common laws or statutes of this realm, shall forfeit to the crown all such rights, entries, and conditions, as also all such lands, tenements, and hereditaments, which such offender shall have of any estate of inheritance, in use or possession, within Ireland, or the dominions of the same realm, at the time of such treason committed, or at any time after; and every such attainder shall be of as good effect as if done by authority of parliament; and the queen, &c. shall be deemed and adjudged in actual possession of such lands, tenements, uses, hereditaments, goods, chattels, and other things of the offender so attainted, without any office or inquisition to be found of the same: Saving to every person, &c. all rights, &c. By the 1 Edw. 6. c. 12. s. 17. Eng. albeit any person shall be attainted of any treason, petit treason, misprision of treason, murder, or felony, yet the wife of the person so attainted shall be endowable, and enabled to demand, have, and enjoy her dower, in like manner as though her husband had not been attainted, convicted, or outlawed: saving to every person, &c. their rights, &c. as they ought to have before or at the time of such attainder, &c. But the 5 & 6 Edw. 6. c. 11. Eng. enacts, (s. 13.) that the wife whose husband shall be attainted of treason, shall in no wise be received to demand or have dower of any the lands, &c. of any person attainted of treason, during the said attainder in force.* No statute in Ireland contains any similar provision to these of the 1 Edw. 6. c. 12. or 5 & 6 Edw. 6. c. 11. *supra*.

The 1 Ric. 3. c. 3. E. & I. enacts, that no sheriff, under-sheriff, escheator, bailiff of franchise, or other person, shall take or seize the goods of any person arrested or imprisoned for suspicion of felony, before that such person

Widows of felons, &c. shall be endowable.

5 & 6 Edw. 6. c. 11. s. 13. Eng.

Widows of traitors barred of dower.

Goods of felons not to be seized till after conviction or attainder.

1 Ric. 3. c. 3. E. & I.

* So much of the 7 Ann. c. 21. Eng. and 17 Geo. 2. c. 39. Eng. as put an end to forfeiture after the death of the Pretender and his sons, is repealed by the 39 Geo. 3. c. 93. Eng.

21 Edw. 3. st. 1.
c. 3. E. & I.

*Estreats in the
exchequer, how
discharged.*

be convicted or attainted according to law, or the same goods otherwise lawfully forfeited; upon pain to forfeit double the value of the goods so taken, to be recovered by action of debt. And by the 31 Edw. 3. st. 1. c. 3. E. & I. if any man (or town) be charged in the exchequer, by estreats of the justices, of the chattels of fugitives and felons, and will allege, in discharge, another which is chargeable, he shall be heard, and right done to the other.

§. 4.

IV. The provisions of the several statutes of *jeofailes*, which expressly except indictments or proceedings in criminal cases, have been already stated in a preceding part of this work. No other statute, therefore seems to relate to this head of "Judgment and its Consequences," or to the head of "Reversal of Judgment."

CHAP. XXVII.

Of Reprieve and Pardon.

*In what cases
pardons shall be
granted.*

2 Edw. 3. c. 2.
E. & I.

10 Edw. 3. st. 1.
c. 2. E. & I.

14 Edw. 3. st. 1.
c. 15. E. & I.

WITH respect to the prerogative of the king in granting pardons: the 2 Edw. 3. c. 2. E. & I. recites, that offenders have been greatly encouraged, because the charters of pardon have been so easily granted in times past, of man-slaughters, robberies, felonies, and other trespasses; and therefore enacts, that such charters shall not be granted but only where the king may do it by his oath: *viz.* where a man slayeth another in his own defence, or by misfortune: which statute is confirmed by the 10 Edw. 3. st. 1. c. 2. E. & I. And the 14 Edw. 3. st. 1. c. 15. E. & I. declares all pardons granted to the contrary to be void. But this prerogative of the king appears from the 13 Ric. 2. st. 2. c. 1. *infra*, to be afterwards extended or enlarged. The 27 Hen. 8.

Hen. 8. c. 24. Eng. recites, that divers of the most ancient prerogatives and authorities of justice, appertaining to the imperial crown of this realm, have been severed from the same by sundry gifts of the king's progenitors, &c.; and enacts, that no person shall have any power to pardon or remit any treasons, murders, man-slaughters, or any kinds of felony; nor any accessories to any treasons, &c.; or any outlawries for such offences as aforesaid; but the king shall have the whole and sole power knit to the imperial crown of this realm. It was provided by the *Ordin. pro stat. Hiberniæ*, 17 Edw. 1. c. 6. Eng. that no pardon of the suit of the king's peace for death of a man, or other felony, shall be granted by the justice of Ireland, without special command of the king under his seals of England. And by another ordinance for the state of Ireland, 31 Edw. 3. st. 4. c. 6. Eng. charters of pardon shall not be granted by the justice of Ireland, but in parliament, or in council, by their assent; and there shall be no general pardon, but the felonies or trespasses shall be specified. But the 6 Geo. 1. c. 12. Ir. and 12 Geo. 1. c. 8. Ir. *post** seem to recognize the right of the lord lieutenant to grant pardons. The 28 Geo. 3. c. 24. Ir. enacts (s. 3.) that whenever the office of chief governor of Ireland shall be avoided by his death, and until a justice or governor shall have been elected according to the provisions of this act, the lord chancellor shall have power to suspend, respite, or delay the execution of every sentence, punishment, or penalty, pronounced or adjudged at the suit of the king, until the pleasure of the king be known, or until 14 days from the day when the justice or governor so elected, or commissioned by the king, shall have taken the customary oath of office within this kingdom, as by law required. This prerogative of the king is restrained in respect to the offence of illegal imprisonment in prisons beyond the seas by the *Habeas Corpus* Act, 31 Car. 2. c. 2. Eng. as already stated, vol. 1. chap. 1. And it is a provision of the Act of Settlement 13 W. 3. c. 2. Eng. that no pardon under the great seal of England, shall be pleadable to an impeachment

27 Hen. 8. c. 24. s. 1. Eng.

The king alone to have the power of pardoning.

17 Edw. 1. c. 6. Eng.

Pardon how granted in Ir. and.

31 Edw. 3. st. 4. s. 6. Eng.

* *Vide p. 1249.*

28 Geo. 3. c. 24. s. 3. Ir.

Where office of lord lieutenant vacant, lord chancellor may respite sentences, &c.

Prerogative restrained by certain acts.

31 Car. 2. c. 2. s. 3. Eng.

13 W. 3. c. 2. s. 3. Eng.

7 Edw. 4 c. 3.
Ir.

27 Edw. 3. st. 1.
c. 2. E. & I.

*Form of charters
of pardon.*

13 Ric. 2. st. 2.
c. 1. E. & I.

16 Ric. 2. c. 6.
E. & I.

*How to be in
murder, &c.*

10 Edw. 3. st 1
c. 3. E. & I.

*Persons par-
doned, to find
security for their
good behaviour.*

ment by the commons in parliament. The 7 Edw. 4. c. 3. Ir. *ante* p. 532. restrains the king's power of pardoning provisors: But no other Irish statute contains any provisions similar to those above mentioned. As to the form in which charters of pardon should be granted; the 27 Edw. 3. st. 1. c. 2. E. & I. provides, that in every charter of pardon of felony, which shall be granted at any man's suggestion, the said suggestion, and the name of him that maketh it, shall be comprised in such charter; and if upon inquiry by the justices before whom such charter shall be alleged, the suggestion be found untrue, the charter shall be disallowed. And by the 13 Ric. 2. st. 2. c. 1. E. & I. as amended by the 16 Ric. 2. c. 6. E. & I. no charter of pardon shall be allowed before any justice for murder, or for the death of a man slain by lying in wait, assault, or malice prepensed, treason, or rape, unless the same be specified in such charter; And if any charter of the death of a man be alleged before any justices, in which it is not specified that he of whose death any such was arraigned was murdered or slain by lying in wait, assault, or malice prepensed, the justices shall inquire by a good inquest, of the visne where such person was slain, if he were murdered, &c. by lying in wait, &c.: and if they find that he was murdered, &c. by lying in wait. &c. the charter shall be disallowed. And with respect to the manner of allowing pardons: it was enacted by the 10 Edw. 3. st. 1. c. 3. E. & I. that in case the king shall grant any charters of pardon of manslaughter, robbery, felony, or other trespass against the peace, they that shall have such charters shall, within 3 months after the making the same, come and find before the sheriffs and coroners of the counties where the felonies were done, 6 sufficient mainpernors, for whom the said sheriffs and coroners shall answer, that they from thenceforth shall bear themselves lawfully; and the mainprises shall be sealed with their seals, and returned into chancery within 3 weeks after the end of the said 3 months; and if they that have such charters would aid themselves thereby, and shall not find

find such mainpernors, or, after such such mainprise found, shall demean themselves otherwise against the Peace than they ought, their charters shall be holden for none. This statute was repealed in England by the 5 W. & M. c. 13. Eng. which however provides, that if any charter of pardon be pleaded by any person for any felony; the justices before whom such pardon shall be pleaded, may, at their discretion, remand or commit such person to prison, until he shall enter into a recognizance, with 2 sufficient sureties, for his being of the good behaviour for any time not exceeding 7 year. Where pardon pleaded, justices may require sureties for good behaviour. Provided that if any such charter of pardon be pleaded by a feme covert, or infant, such feme covert, &c. may find 2 sureties for him or her being of the good behaviour as aforesaid. The 10 Edw. 3. st. 1. c. 3. *supra*, has not been repealed or modified by any Irish statute similar to the 5 W. & M. c. 13. Eng. *supra*.

With respect to conditional pardons: The 8 Geo. 3. c. 15. Eng. provides, that where any offender shall be convicted of any crimes for which he is by law to be excluded the benefit of clergy, and the judge, or justice of *oyer and terminer*, or gaol-delivery, in any county, &c. before whom such offender shall be convicted, shall grant a reprieve for the staying of execution of such offender, and recommend him to his majesty as a proper object of mercy; if the king shall extend mercy to such offender upon condition of transportation to any part of America, and such intention of mercy shall be signified by one of the principal secretaries of state to the judge so recommending, it shall be lawful for such judge, &c. to make an order for the immediate transportation of such offender, as if such intention had been signified during the continuance of the assizes at which such offender was condemned; and such order shall be considered as an order made at such assizes or place, &c.: and such offender shall be transferred, conveyed, and made over to any person who will contract for the performance of such transportation, and to his assigns, for 14 years, in case such condition of transportation be general; or else for such other term as shall be made part of

Where a pardon is granted on condition of transportation, the judge who reprieved offender may make an order for his transportation.

8 Geo. 3. c. 15. Eng.

Effect of such order.

Effect of such transportation.

Reward for discovering, &c. persons being at large after transportation.

24 Geo. 3. st. 2. c. 56. s. 1. Eng.

Where person pardoned on condition of transportation, king may transfer convict to any person.

of such condition, if any particular time be specified by the king; and such person so contracting, or his assigns, shall have a property in the service of such offender for such term as aforesaid; and such transportation shall have the effect of a pardon under the great seal for such offender, as to the crime for which he was so convicted; but if any such offender so ordered for transportation, shall be afterwards at large within Great Britain, without some lawful cause, before the expiration of the term for which such offender shall have been ordered to be transported, such offender being thereof convicted, shall suffer death as in cases of felony without benefit of clergy; and shall be tried before such judges, and in such manner, and the same evidence made use of for his conviction, as directed by the laws now in being for the trial of other felons found at large within this kingdom before the expiration of the term for which they were ordered to be transported: and whoever shall discover, apprehend, and prosecute to conviction of felony without benefit of clergy, any such offender so found at large, he shall be entitled to the like reward of £20. and certificate, and in the same manner, as any person may be entitled to for discovering, &c any person ordered to be transported, and found at large within this kingdom before the expiration of the term for which such person was ordered to be transported. And the

24 Geo. 3. st. 2. c. 56. Eng. further enacts (s. 1.) that when the king shall extend mercy to any offender, convicted of any crime for which he is by law excluded from the benefit of clergy, upon condition of transportation beyond the seas, either for life or years, and such intention shall be signified by one of the principal secretaries of state; it shall be lawful for any court, having proper authority, to allow such offender the benefit of a conditional pardon, and (except in cases where such offender shall be authorized by his majesty to transport himself) to order the transfer of such offender to any person who shall contract for the due performance of such transportation, and his assigns. for such term of years, for which such offender shall have been ordered

to

to be transported, or for such term of life or years as shall be specified in such condition of transportation; and such person so contracting, or his assigns, shall have a property in the service of such offender, for such terms respectively; and when any offender shall be convicted of any crime for which he is by law excluded the benefit of clergy, the judge before whom he shall be convicted, or any justice of K. B. or C. B. or baron of Exc. of the degree of the coif, (in case the offender shall have been tried at any court of *oyer and terminer*, or gaol delivery, in England, or any justice of Chester or Wales, in case the offender shall be convicted within their jurisdictions) may, on such intention of mercy being signified to him by one of the principal secretaries of state, make an order for the immediate transportation of such offender, in the same manner as if such intention of mercy had been signified during the continuance of the assizes or sessions at which such offender was condemned; and such order shall be considered as an order made at such assizes or sessions, &c. The other clauses of this statute *ante* p. 1223-4. are to be here also referred to. The 6 Geo. 1. c. 12. Ir. also enacts, (s. 1.) that where any person shall be convicted of any crime for which he is by law excluded the benefit of clergy, and the king, or chief governor of Ireland, shall extend mercy to such offender on condition of transportation to America, it shall be lawful for the judges of assize, judges of the king's bench, commissioners of *oyer and terminer*, and justices at the sessions to be holden for the city and county of the city of Dublin, to allow such offender the benefit of a pardon on condition of transportation; and such judges, &c. shall direct a warrant of transportation for such offender.* And the 12 Geo. 1. c. 8. Ir. further enacts, (s. 10.) that when the king, or lord lieutenant, shall

Contractor to have a property in the service of convict.

Judge who tried offender may make an order for his transportation.

6 Geo. 1. c. 12. s. 1. Ir.

Where pardon granted on condition of transportation, who may allow such pardon, &c.

12 Geo. 1. c. 8. s. 10. Ir.

* The remainder of this clause of the 6 Geo. 1. c. 12. which relates to the transmission of such offenders, their maintenance till transportation, and to the presenting money to defray such expenses, appears to be repealed by the 26 Geo. 3. c. 24. s. 71. Ir. *ante* p. 1230. And Mr. Ball makes it a query whether the 12 Geo. 1. c. 8. s. 10. *post*, is not also repealed by the same statute.

Where king or lord lieutenant extend mercy on terms of transportation, such order as effectual as a pardon

Proceeding thereon.

17 & 18 Geo. 3.
c. 9. s. 11. Ir.

Where mercy extended to felons upon condition of being kept to hard labour, the notification thereof by the secretary of the lord lieutenant to judge, to be allowed as a pardon.

shall extend mercy to any person convicted of felony, or who shall have received sentence of death for any felony, any order under the sign manual of the king, or under the hand of the lord lieutenant, directing such person to be transported, shall be as effectual as if a pardon for such felony, with condition of transportation, had been passed under the great seal, and pleaded and allowed; and such order shall be a sufficient warrant to all sheriffs, gaolers, and others, for the delivery of the person in such order named, to the sheriff or gaoler of the place from whence such felon is to be transported, or to the person contracting for the transportation of such felon; so as such order be countersigned by the judges, or one of them, before whom such felon was tried; which order, after such delivery of such felon, shall be lodged in the hands of the clerk of the crown or clerk of the peace where such conviction was had, together with a receipt from the person to whom such felon was delivered to be transported, to be kept amongst the records of the court. And by the 17 & 18 Geo. 3. c. 9. s. 11. Ir. where any person shall, at any session of *oyer and terminer*, or gaol-delivery, or at any quarter or other general session of the peace for any county, &c. be convicted of robbery or other felony, for which he shall be liable to suffer death without benefit of clergy, and his majesty shall extend the royal mercy to such offender, upon condition of being kept to hard labour at the place of confinement to be appointed for this purpose as herein mentioned, and such intention of mercy shall be notified in writing by the secretary of the lord lieutenant, to the judge or justice of *oyer and terminer*, or gaol delivery, in any county, &c. before whom such offender shall be convicted, it shall be lawful for such judge, &c. to make an order for allowing forthwith to every such offender, the benefit of a conditional pardon, as if there was a conditional pardon under the great seal, and shall adjudge that such offender shall be kept to hard labour for the time specified in the notification from the secretary of state.

CHAP. XXVIII.

Of Execution

TO this head of "Execution" might be referred the 33 Hen. 8. c. 12. Eng. *ante* p. 577. to 580. which contains a minute and curious detail of the parade and manner of executing the sentence upon convictions for malicious strikings within the king's palaces: And the 25 Geo. 2. c. 37. Eng. and 31 Geo. 3. c. 17. Ir. *ante* p. 904-5-6-7. which prescribe the particular time and mode of execution of persons found guilty of wilful murder, might also have been reserved for this place: But it appeared to be a more convenient arrangement, to give those statutes fully, under the heads of the offences to which they particularly related. The 30 Geo. 3. c. 48. Eng. and 31 Geo. 3. c. 17. Ir. *ante* p. 1240-1. which have altered the common law judgment and execution in cases of high treason and petit treason committed by women, may be here also referred to.

THE END OF THE FOURTH BOOK.

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THE END OF THE FOURTH BOOK.

ADDENDA & CORRIGENDA,

CONTAINING the Acts of the three last sessions of parliament, A. D. 1809, 1810, and 1811, (which were published after this work was put to press,) and such other additions and alterations as are proper to be made in the several parts of the work.

VOLUME I.

The letters *P.* and *L.* with the figures prefixed to the several paragraphs in the *Addenda*, denote the pages and lines in the body of the work, where the supplemental matter should be introduced, or alterations be made.

P. 8. l. 33. **T**HE 3 Hen. 7. c. 1. E. & I. (from which statute the jurisdiction of the court of star-chamber in England, and of the court of castle-chamber in Ireland, respectively emanated) recites, that by unlawful maintenances, giving of liveries, signs and tokens, and retainders by indentures, promises, oaths, writings, or otherwise embraceries of the king's subjects, untrue demeanings of sheriffs in making of panels, and other untrue returns, by taking of money by juries, by great riots, and unlawful assemblies, the policy and good rule of the realm is almost subdued; and therefore provides, (s. 1.) that the chancellor and treasurer of England, and keeper of the king's privy seal, or two of them, calling to them a bishop and a temporal lord of the king's most honourable privy council, and the chief justices of the king's bench and common place, or other 2 justices in their absence, upon bill or information put to the said chancellor for the king, or any other, against

3 Hen. 7. c. 1.
s. 1. F. & I.

*Jurisdiction of
the court of star-
chamber and
castle chamber,
established.*

any person for any misbehaviour before rehearsed, shall have authority to call before them by writ, or by privy seal, the said misdoers, and them, and other by their discretion, by whom the truth may be known, to examine, and such as they find therein defective to punish after their demerits, after the form and effect of the statutes thereof made, in like manner as if they were thereof convict after the due order of the law.

1 Ric. 3. c. 2.
E. & I.

*Benevolences
abolished.*

P. 9. l. 37.—The 1 Ric. 3. c. 2. E. & I. recites, that the commons of the realm had been aggrieved by a new imposition called a “benevolence,” and enacts, that they shall from henceforth in no wise be charged by such charge, imposition, or exaction, or the like, but that it shall be damned and annulled for ever.

16 Car. 1. c. 20.
Eng.

*Oppressive pro-
ceedings touch-
ing knighthood
prohibited.*

P. 10. l. 33.—The 16 Car. 1. c. 20. Eng. recites the vexatious proceedings in this reign touching the order of knighthood, and enacts, that no person of what condition, quality, estate, or degree, shall be compelled to take upon him the order of knighthood; nor shall suffer any fine or trouble by reason of his not having taken upon him the same.

1 Ric. 2. c. 2.
E. & I.

*Equal justice to
be done to every
one.*

P. 11. l. 10.—The 1 Ric. 2. c. 2. E. & I. ordains that peace shall be kept, so that all lawful subjects may safely go, come, and abide, according to the laws and usages of the realm; and that good justice and equal right be done to every one.

52 Hen 3. c. 22.
E. & I.

*None to answer
for their free-
hold in lord's
court:*

P. 11. l. 17.—By the 52 Hen. 3. c. 22. E. & I. none may distrain his freeholders to answer for their freeholds, nor for any thing thereunto appertaining, nor make them swear against their will; for no man may do that without the king's command. By the 15 Ric. 2. c. 12. E. & I. none of

15 Ric. 2. c. 12.
E. & I.

*Nor for any
thing belonging
to the law of
the land.*

the king's subjects shall be compelled to appear before the council of any lord to answer for his freehold, nor any other thing real or personal which belongeth to the law of the land; and if any find himself aggrieved contrary to this ordinance, he may sue to the chancellor

16 Ric. 2. c. 2.
E. & I.

who shall give relief. And by the 16 Ric. 2. c. 2. E. & I. if any lord, or other the king's subject, do contrary to

*Penalty for of-
fending against*

15 Ric. 2. c. 12.

the 15 Ric. 2. c. 12. he shall incur the pain of £20. to the king.

P. 11. l. 17.—It is a provision of the 21 Jac. 1. c. 3. 21 Jac. 1. c. 3. s. 1. Eng. Eng. that all commissions, grants, licenses, charters, and patents, to give license or toleration to do any thing The king's patents, &c. dispensing with laws, or granting forfeitures before judgment, void. against any law, or to agree or compound with any others for any penalty or forfeiture limited by any statute, or of the grant or promise of the benefit of any penalty, &c. that shall be due by any statute, before judgment thereupon had, shall be void. But by s. 8. this act shall not extend to any warrant or privy seal made or directed by the king to any justices having power to hear and determine offences against any penal statute, to compound for the forfeiture of any penal statute depending in suit before them, after plea pleaded by the defendant. s. 3. Proviso.

P. 29. l. 36.—The 51 Geo. 3. c. 99. E. & W. recites, 51 Geo 3. c. 99. E. & W. *inter alia*, that no person is allowed by law to vote for electing any member of parliament in respect of any annuity, fee-farm rent, or rent charge, without the same being first duly registered; and declares and enacts, that in order to entitle any person to vote at an election for a member of parliament, in respect of land tax purchased according to the provisions of the 42 Geo. 3. c. 116. it shall not be necessary to have the same, or any memorial of the contract or certificate of the purchase thereof, so registered. Purchasers of land-tax need not be registered

P. 31. l. 23. and P. 32. l. 5 & 6. and 10 & 11. and 12 & 13.—The 51 Geo. 3. c. 77. I. recites the 45 51 Geo. 3. c. 77. s. 2. I. Geo. 3. c. 59. s. 1. I. and, for obviating certain doubts in respect to its construction, declares and enacts (s. 2.) Term of 12 months in 45 Geo. 3. c. 59 s. 1. means 12 calendar months. that the term of 12 months, for which a freehold under the yearly value of £20. not arising from a rentcharge, is thereby required to be registered, shall be deemed to mean 12 calendar months. And by s. 1. every oath or affirmation which shall have been made before the passing of this act, or which shall be made after the passing of this act, for the purpose of registering such freehold, shall be good and valid, if the party making such oath, &c. shall have stated, or shall state therein, that his freehold arises, either “by virtue of a deed,” or “by virtue of a lease,” or “by virtue of an instrument produced by s. 1. Oath, &c. in 45 Geo 3. c. 59. s. 1. I. required to be taken by freeholders under £20. at registering, explained. him,”

him," or "by virtue of a deed, lease, or instrument produced by him," whether all, or any, or either of the said terms, "deed, lease, or instrument," are used in such oath or affirmation; and every such oath, &c. shall be valid, in which either the whole yearly rent, or the yearly rent *per acre*, or such yearly rent *per acre* with the number of the acres, shall be stated; and whether the amount of receiver's fees and duties is or is not included in the specified amount of such rent, or whether the sums have been or shall be set forth in figures, or in words at length; and every such oath, &c. shall be good, in which the actual occupation of such freehold shall be stated to be either "by residing thereon," or "by tilling," or "by grazing," or "by tilling or grazing," or "by both tilling and grazing," or by all, or any, or either of the said means, whether stated copulatively or disjunctively.

19 Geo. 2. c. 28.
s. 13. Eng.

*Proviso as to
burgage tenure,
&c.*

P. 42. last line.—The 19 Geo. 2. c. 28. Eng. provides, (s. 13.) that this act (except such clauses as are made for allowing cheque books, or for notice of the time and place of election, and proceeding to election thereupon) shall not extend to any city or town being a county of itself, or to any person, where the right of voting for any member of such city, &c. is in respect of burgage tenure; or where the right of voting in respect of a freehold does not require the same to be of the yearly value of 40s.

33 Geo. 3. c. 41.
s. 6. Ir.

*Number of com-
missioners not
to be increased.*

P. 61. l. 26.—The 33 Geo. 3. c. 41. Ir. provides (s. 6.) that no greater number of commissioners shall be made for the execution of any office, than have been employed in the execution of such office, at some time before the first day of the present parliament.

51 Geo. 3. c. 77.
s. 3. I.

*Qualification
oaths of catho-
lics, when to be
taken.*

P. 89. l. 21.—The 51 Geo. 3. c. 77. I. enacts (s. 3.) that any papist or person professing the Roman-catholic religion, who before the passing of this act shall have taken and subscribed, or who after the passing of this act shall take and subscribe, at any time previous to his offering to poll at any election, the oaths and declaration contained in the 13 & 14 Geo. 3. c. 35. Ir. and 33 Geo. 3. c. 21. Ir. in one of the Four Courts in Dublin,
or

or at any assize, or at a general sessions of the peace, or at any adjournment thereof, or at any adjournment of an adjournment thereof, to be holden for any county, city, or town, wherein such papist, &c. doth or shall inhabit or dwell, in open court, or at any election in manner herein provided, shall be entitled to vote at such election, as if he had taken and subscribed such oath, &c. in manner and at the time required by the 37 Geo.3.

c. 47. And this act provides (s. 4.) that when a poll shall be demanded at any election of a member to serve in parliament for any county, &c. in Ireland, the returning officer shall, at the request of any candidate at such election, under his hand, immediately after such request, and before he shall proceed further in taking the poll, retain and appoint 2 or more justices of peace (as the case may require) to administer the oaths and declarations required by said acts, in some convenient part of the court or place where such election shall be carrying on, so as not to interrupt the poll; and the clerk of the peace, or a deputy by him appointed by writing under his hand, shall attend such persons during the administration of such oaths, &c. and shall give to every person so taking and subscribing such oaths, &c. a certificate thereof, in manner required by said acts; and the persons to be appointed as aforesaid, shall administer such oaths, &c. to every person desirous of taking and subscribing the same; and every person so appointed shall, immediately after such appointment, and before he shall take upon him to act, take the following oath: " I ——— do swear, that I will faithfully and
 " impartially administer the oaths and declarations now
 " required to be taken, and subscribed by papists or
 " persons professing the Roman-catholic religion, by an
 " act passed in the 13th year of his present majesty's
 " reign, intituled, " an act to enable his majesty's sub-
 " jects, of whatever persuasion, to testify their alle-
 " giance to him;" and also another act passed in the 33d
 " year of his present majesty's reign, intituled, ' an act
 " for the relief of his majesty's popish or Roman-catholic
 " subjects in Ireland." And every clerk of the peace,

s. 4.

Returning officer to nominate 2 or more justices to administer oaths, &c. to catholics.

Certificate to be given of taking such oaths, &c.

Oath to be taken by persons so appointed by returning officer.

or

*Oath of clerk of
the peace, or his
deputy.*

or his deputy so appointed as aforesaid, shall, at the same time, take the following oath: "I ——— do swear, " that I will, on being thereunto requested, fairly and " truly give, to every person who shall now take and sub- " scribe the oaths and declarations required by law to " be taken by persons professing the Roman-catholic " religion, in order to entitle them to vote at any elec- " tion, before the commissioners appointed by the re- " turning officer for that purpose, a certificate thereof " as required by law; and that I will not give any such " certificate to any person before he shall have taken and " subscribed such oaths and declarations as shall be " mentioned in such certificate, before me, and in my " presence:" Which oath (to be taken by the persons so appointed) the returning officer shall administer.

s. 5.

*Rolls containing
names, &c. of
catholics who
have taken the
oaths, &c. to be
transmitted to
rolls office.*

And this act (s. 5.) recites the clause of the 33 Geo. 3. c. 21. Ir. which requires the names of such persons who shall take and subscribe the said oaths and declarations, with their titles and additions, to be entered upon rolls to be appointed by the respective courts; and enacts, that the officer of the court where such oaths, &c. shall have been taken and subscribed, shall, on or before the 1st January, 1812, transmit to the office of the rolls, all such rolls as shall not have been duly transmitted before the passing of this act; and such officer shall also, within 14 days after 1st January in every subsequent year, transmit to the office of the rolls, all rolls containing the names, titles, and additions of all persons who shall have taken and subscribed such oaths, &c. which shall remain in the office of such court previous to 1 January in each year. By s. 6. such officer shall, previous to his

s. 6.

*Description of
persons who have
taken the oaths,
&c. to be enter-
ed, before trans-
mitted, in a book
alphabetically.*

transmitting such rolls to the rolls office, justly and truly enter in a book, in alphabetical order, the names, residence, and additions of all persons whose names shall be entered in such rolls, and such book shall be open to the inspection of any person, on paying a fee of 2s. 6d.; and in case any person who shall have taken and subscribed, or who shall hereafter take and subscribe such oaths and declarations in such court, shall be desirous of obtaining a certificate thereof, and shall demand the same from such officer, and if upon reference to such book,

book, it shall appear that the name, with the residence of such person, is contained therein, and that such person shall verify on oath, that he actually did at any former time take and subscribe such oaths, &c. then such officer shall, on demand, give to such person a certificate thereof, in manner required by said act. By s. 7. if the vote of any person to whom such certificate shall be given, shall be refused on account of the invalidity of any such certificate, as not being in the form required by law, it shall be lawful for such person to demand from the clerk of the peace, his deputy or other proper officer, a new and sufficient certificate in the form required by law, on paying to such officer a fee of 1s.; and such person shall be permitted to poll (if in all other respects duly qualified) upon producing such new certificate. By s. 8. every such officer of court who shall neglect or omit to transmit, in manner and within the time required as aforesaid, the said rolls to the rolls office, or who shall refuse or neglect to make such alphabetical lists, or who shall omit from such alphabetical list, the name of any person entered on such rolls and entitled to such certificate, or who shall insert in such alphabetical lists the name of any person not so entered and entitled, or who shall refuse or neglect to give any certificate herein required to be given, shall forfeit £100. to be recovered by bill, plaint, or information, in any court of record in Dublin.

Certificate of taking the oaths, &c. how obtained.

s. 7.

Objections to the form of certificate, how obviated.

s. 8.

Duty of officers in these respects enforced.

P. 91. l. 26.—The 49 Geo. 3. c. 118. U. K. recites, that the giving or procuring to be given, or promising to give or to procure to be given, any sum of money, gift, or reward, or any office, place, employment, or gratuity, in order to procure the return of any member to serve in parliament, if not given to or for the use of some person having a right, or claiming to have a right, to act as a returning officer, or to vote at such election, is not bribery within the meaning of the 2 Geo. 2. c. 24. Eng. but such gifts or promises are contrary to the ancient usage, right, and freedom of elections; and therefore declares and enacts, that if any person shall, either by himself or any person on his behalf, give or cause to be given, directly or indirectly, or promise or agree to give any sum of money, gift, or reward, to any person upon

49 Geo. 3. c. 118. s. 1. U. K.

Penalty on persons entering into any engagement, &c. for money, &c. to procure, &c. the return of a member of parliament.

upon any engagement, contract, or agreement, that such person to whom, to whose use, or on whose behalf such gift, &c. shall be made, shall by himself, or by any other person at his solicitation, request, or command, procure or endeavour to procure the return of any person to serve in parliament for any county, stewartry, city, town, borough, cinque port, or place, he shall, for every such gift, &c. forfeit £1000. to be recovered in such manner as is hereinafter provided with respect to the sum of £500. ; and every person so returned, and so having given or promised to give, or knowing of and consenting to such gifts, &c. upon any such engagement, &c. shall be incapacitated to serve in that parliament for such county, &c. as if he had never been returned; and any person who shall receive, by himself or any person in trust for, or to the use, or on behalf of him, any money, gift, or reward, or any such promise, upon any such engagement, &c. shall forfeit to his majesty, the value and amount of such money, &c. above the sum of £500.; which £500. he shall forfeit to any person who shall sue for the same, to be recovered, with full costs of suit, by action of debt, &c. in any court of record at Westminster, if the offence be committed in England and Wales; and in any court of record in Dublin, if committed in Ireland; and if the offence be committed in Scotland, then to be recovered with full costs of suit, by summary action or complaint before the court of session, or prosecution before the court of justiciary there. Provided

(s. 2.) that nothing in this act shall extend to any money paid or agreed to be paid to or by any person, for any legal expense, *bona fide*, incurred at or concerning any election. And by s. 3. if any person shall, by himself, or by any other person, for or on his behalf, give or procure to be given, or promise to give, &c. any office, place, or employment, to any person, upon any express contract or agreement that such person, to whom, or to whose use, or on whose behalf, such gift or promise shall be made, shall, by himself, or by any other person at his request, or command, procure or endeavour to procure the return of any person to serve in parliament for any county,

s. 2.

Proviso.

s. 3.

Penalty on persons giving, &c. any office, &c. in order to procure a return to parliament.

county, &c. such person so returned, and so having given or procured to be given, or so having promised to give, &c. or knowing of and consenting to such gift, &c. upon any such express contract or agreement, shall be incapacitated to serve in that parliament for that county, &c. as if he had never been returned, &c.; and any person who shall receive by himself, or by any other person in trust for, or to the use or on behalf of such person, any such office, &c. upon such express contract, &c. shall forfeit such office, &c. and be incapacitated for holding the same, and shall forfeit £500. which shall be recovered as is herein-before enacted; and any person holding any office under his majesty, who shall give such office, &c. upon any such express contract, &c. that the person to whom or for whose use such office, &c. shall have been given, shall so procure, or endeavour to procure the return of any person to serve in parliament, shall forfeit £1000. to be recovered as herein-before provided. By s. 4. no person shall be liable to any forfeiture or penalty by this act imposed, unless some prosecution or suit for the offence committed, shall be actually and legally commenced against such person, within 2 years after such offence, and unless he shall be actually and legally arrested, summoned, or otherwise served with any original, or other writ or process, within the same space of time, so as such arrest, &c. shall not be prevented by such person absconding or withdrawing out of the jurisdiction of the court out of which such original or other writ or process shall have issued; and in case of such prosecution, &c. the same shall be carried on without wilful delay; and all statutes of *jcōfailes* and amendments shall extend to all proceedings in any such prosecution, &c.

Penalty for accepting such office, &c. upon such contract, &c.

s. 4.

Limitation of actions, &c. for penalties.

P. 93. l. 24.—The 43 Geo. 3. c. 74. G. B. provides, that the oath or affirmation prescribed by the 2 Geo. 2. c. 24. (against bribery) shall, notwithstanding the 42 Geo. 3. c. 62. be taken in manner prescribed by the 2 Geo. 2. c. 24.

43 Geo. 3. c. 74. G. B.

Bribery oath when and how taken.

P. 99. l. 7.—The 25 Geo. 3. c. 84. Eng. provides (s. 6.) that upon every election of any member to serve in

25 Geo. 3. c. 84. s. 6. Eng.

Returning officer may administer oath upon scrutiny.

in parliament for any county, &c. within England, &c. it shall be lawful for the returning officer, if he see cause, during the continuance of any scrutiny, to administer an oath to any person consenting to take the same, touching the right of any person having voted at such election, or touching any other matter material towards carrying on such scrutiny.

9 Ann. c. 20.
s. 8. Eng.

Returning officer not to be elected for 2 years successively.

P. 100. l. 18.—The 9 Ann. c. 20. Eng. recites (s. 8.) that in divers counties, boroughs, towns corporate, and cinque ports, where the mayor, bailiff, or other officer, to whom it belongs to preside at the election, and make return of any members to serve in parliament, ought to be annually elected, the same person hath been re-elected into such office for several years successively, which hath been found inconvenient; and therefore enacts, that no person who shall be in such annual office for one whole year, shall be capable to be chosen into the same office for the year immediately ensuing; and where any such annual officer is to continue for a year, and until some other person shall be chosen and sworn into such office, if any such officer shall voluntarily and unlawfully obstruct and prevent the choosing another person to succeed into such office at the time appointed for making another choice, [*he] shall forfeit £100 for every such offence, to be recovered with costs of suit, by such person as will sue for the same in any court of record before mentioned,† by action of debt, &c. one moiety to the crown, and the other to him that will sue for the same.

Penalty for obstructing the election of a successor in his office.

* not printed.

P. 103. l. 10. The 31 Geo. 2. c. 14. s. 4. Eng. should have been here referred to.

48 Geo. 3. c. 106
U. K.

Continuing acts from what time to take effect.

P. 145. l. 12. By the 48 Geo. 3. c. 106. U. K. where any bill shall be introduced into parliament, for the continuance of any act which would expire in such sessions, and such act shall have expired before the bill for continuing the same shall have received the royal assent, such continuing act shall have effect from the date of the expiration of the act intended to be continued, as if such

† The courts mentioned in this act (s. 1.) are the courts of queen's bench, the courts of sessions of counties palatine, and of grand sessions in Wales.

such continuing act had actually passed before the expiration of such act, except it shall be otherwise provided in such continuing act: Provided that nothing herein shall affect any person with any punishment, penalty, or forfeiture, by reason of any thing done or omitted to be done by any person contrary to the provisions of the act so continued, between the expiration of the same, and the date at which the act continuing the same shall receive the royal assent.

P. 164. l. 18.—The 35 Hen. 8. c. 3. Eng. is to be also here stated, which enacted, that his majesty's stile should be in Latin: "*Henricus octavus, dei gratia, Angliæ, Franciæ, et Hiberniæ rex, fidei defensor, et, in terra, ecclesiæ Anglicanæ et Hibernicæ supremum caput;*" and in the English tongue: "Henry the eighth, by the grace of God king of England, France and Ireland, defender of the faith, and of the church of England and also of Ireland, in earth the supreme head;" and that the said stile shall be united and annexed for ever to the imperial crown of the realm of England.

P. 170. l. 20.—The 40 Geo. 3. c. 46. Ir. amends the 2 Geo. 1. c. 15. Ir. by providing that 4 or more of the trustees or commissioners of first fruits shall be a *quorum*.

P. 171. l. 21.—The 46 Geo. 3. c. 60. I. also provides, for the better regulation and management of the charitable bequest of Archbishop Boulter for augmenting the maintenance of poor clergy in this kingdom.

P. 173. last line.—The 49 Geo. 3. c. 103. I. is an act to amend the 48 Geo. 3. c. 65. for making provisions for the building and rebuilding of churches, chapels, and glebe houses in Ireland.

P. 175. l. 22.—The 39 & 40 Geo. 3. c. 88. Eng. contains several provisions empowering the king and queen to alienate such estates, real and personal, as shall not have come to them in right of the crown.

P. 191. l. 22.—The 51 Geo. 3. c. 79. E. is an act to amend the 48 Geo. 3. c. 96. for the better care and maintenance of lunatics, being paupers or criminals, in England.

Land tax.

P. 191. l. 37.—The 50 Geo. 3. c. 58. G. B. is the last statute which amends the several acts for the redemption and sale of the land tax.

Malt duty.

P. 192. l. 9.—The 51 Geo. 3. c. 2. G. B. continues the annual malt duty to 24 June, 1812.

Prisage and butlerage.

P. 194. l. 4.—The 50 Geo. 3. c. 101. I. is an act for confirming an agreement for the purchase of prisage and butlerage of wines in Ireland, entered into by the commissioners of his majesty's treasury in Ireland, and the earl of Ormonde and his trustees, in pursuance of the 46 Geo. 3. c. 94. I. And the 51 Geo. 3. c. 51 I. is an act for abolishing the duties of prisage and butlerage of wines in Ireland.

Light houses.

P. 195. l. 6.—The 50 Geo. 3. c. 95. I. is an act to enable the corporation for preserving and improving the port of Dublin, to erect, repair, and maintain light-houses round the coasts of Ireland, and to raise a fund for defraying the charge thereof.

Customs consolidated.

P. 195. l. 29.—The 49 Geo. 3. c. 98. G. B. recites the 43 Geo. 3. c. 68. G. B. and repeals the several duties of customs chargeable in Great Britain, and grants other duties in lieu thereof. And by the 51 Geo. 3. c. 86. I. certain new and additional duties are granted.

Excise on tobacco.

P. 196. l. 16.—The 51 Geo. 3. c. 56. I. has granted additional duties of excise on tobacco manufactured in Ireland.

Postage duties.

P. 197. l. 3.—By the 50 Geo. 3. c. 74. I. additional duties are granted upon letters and packets sent by the post within Ireland.

Stamp duties.

P. 197. l. 14.—New and additional stamp duties in Ireland have been granted by the 49 Geo. 3. c. 73. I. and 50 Geo. 3. c. 76. I. and certain stamp duties are repealed by the 51 Geo. 3. c. 70. G. B. and 51 Geo. 3. c. 60. I.

Duties on hawkers and pedlars.

P. 197. l. 18.—The 50 Geo. 3. c. 41. I. repeals the 9 & 10 W. 3. c. 27. Eng. and all other acts relative to the duties of hawkers and pedlars, and places the duties herein mentioned under the management of the commissioners of hackney coaches.

P. 198.

P. 198. l. 10.—An additional duty on dwelling houses *Window tax.* in Ireland, in respect of the windows or lights therein, is granted by the 50 Geo. 3. c. 75. I.

P. 198. l. 17.—The duty payable in respect of servants has undergone some modification by the 50 Geo 3. *Servants' tax.* c. 104. G. B.

P. 198. l. 26.—The amount of the duties on certain carriages is altered by the 50 Geo. 3. c. 104. *Carriage tax.*

P. 199. l. 27.—The 51 Geo. 3. c. 72. U. K. is an act for granting exemption in certain cases from the pay- *Exemptions from taxes.* ment of the duties charged in respect of servants, carriages, horses, and dogs, kept in Great Britain and Ireland respectively.

P. 199. l. 36.—By the 51 Geo. 3. c. 31. G. B. and 51 Geo. 3. c. 44. G. B. certain additional duties of customs are granted during the present war, and for 6 months after. And certain additional duties of excise are granted by the 43 Geo. 3. c. 81. G. B. until 12 months after a definitive treaty of peace. By the 49 Geo. 3. c. 92. G. B. the several sums of eleven millions, and seven millions nine hundred and thirty two thousand one hundred pounds, are charged upon the war taxes. *War taxes.* And by the 51 Geo. 3. c. 61. G. B. the sum of seven millions five hundred thousand pounds is charged upon the duties granted to his majesty during the continuance of the war, &c. except those granted on profits arising from property, professions, trades, and offices, by the 46 Geo. 3. c. 65. G. B.

P. 200. l. 20.—Certain duties on offices and employ- *Duties on offices &c.* ments of profit, and on annuities, pensions, and stipends, are made perpetual by the 49 Geo. 3. c. 32. G. B. And this act is explained and amended by the 50 Geo. 3. c. 56. And the duties which are payable in respect of public offices or employments, or any annuities, pensions, stipends, or other annual payments, by virtue of the 38 Geo. 3. c. 60. Eng. are continued by the 51 Geo. 3. c. 2. G. B.

P. 201. l. 12.—The 51 Geo. 3. c. 113. U. K. is the *Lottery act.* last act for granting to his majesty a sum of money to be raised by lotteries.

2 Edw. 3. c. 4. E. & I. confirms the 9 Edw. 2. st. 2. and also provides, that sheriffs and bailiffs of fee, shall cause their counties and bailwicks to be kept by such as have lands therein.

Who shall be sheriffs, &c.

20 Geo. 2. c. 37. s. 1. Eng. *P. 216. l. 10.*—By the 20 Geo. 2. c. 37. Eng. all sheriffs of any county, city, &c. shall, at the expiration of their office, turn over to the succeeding sheriff, by indenture and schedule, all such writs and process as shall remain in their hands unexecuted, who shall duly execute and return the same; and in case any such sheriff shall refuse or neglect to turn over such process as aforesaid, he shall make satisfaction by damages and costs to the party aggrieved thereby. But by s. 2. no sheriff shall be liable to be called upon to make a return of any writ or process, unless required so to do within 6 months after the expiration of his office.

Process unexecuted turned over to succeeding sheriff.

s. 2.

Sheriffs out of office how long bound to return writs.

11 Ann. c. 8. s. 7. Ir.

No under-sheriff, &c. to act as clerk of the peace.

P. 223. last line.—The 11 Ann. c. 8. Ir. enacts (s. 7.) that no under-sheriff or sheriff's clerk, or any in trust for them or to their use, shall in any manner officiate as clerk of the peace for the same county, under the penalty of £500. for every time he shall so act, to be recovered by such person as will sue for the same, in any of the Four-courts of Dublin, by bill, plaint, or information, wherein, &c.

31 Geo. 3. c. 46. s. 15. Eng.

Justices in sessions to settle a table of fees for gaolers, &c.

P. 230. l. 11.—By the 31 Geo. 3. c. 46. s. 15. Eng. the justices of peace assembled at their general or quarter sessions, or at some special adjournment thereof, were also required, within 12 months after the passing of this act, to settle a table of fees to be taken by the gaoler or keeper of the gaols and other places of confinement in this act mentioned; and the said justices so assembled, are hereby authorized, from time to time, to alter or totally disallow all or any such charges or fees, and to order a copy of the table of fees so regulated, to be hung up in the court of assize and quarter sessions for the county, riding, or division, and another copy to be transmitted to the said gaoler or keeper, who shall cause the same to be hung up in some conspicuous place within the gaols and penitentiary houses; and all orders and directions in the 32 Geo. 2. c. 28. respecting the

the table of fees and rates to be taken by gaolers, &c. shall be conformed to, as if the same were herein repeated.

P. 235. l. 27.—The 50 Geo. 3. c. 103. I. (which is 50 Geo. 3. c. 103. I. intitled an act for repealing the several laws relating to prisons in Ireland; and for re-enacting such of the provisions thereof as have been found useful, with amendments) recites (amongst others) the 17 & 18 Car. 2. c. 8. 3 Geo. 3. c. 28. 7 Geo. 3. c. 4. 17 & 18 Geo. 3. c. 28. 21 & 22 Geo. 3. c. 42. 23 & 24 Geo. 3. c. 41. 26 Geo. 3. c. 27. 26 Geo. 3. c. 45. and 27 Geo. 3. c. 39. which have been in part stated, vol. 1. p. 230. to 235. and repeals the said provisions thereof; but re-enacts them with certain additions and alterations: But as this is a title or branch of the law, which it is not the object of this work fully to detail, it seems to be sufficient thus briefly to refer to the 50 Geo. 3. c. 103. in this place.

Laws respecting gaols consolidated.

P. 240. l. 19.—The 50 Geo. 3. c. 30. I. enacts, that it shall be lawful for the grand jury of each county in Ireland, county of a city, and county of a town, at each assizes or presenting term, to present any sum not exceeding 5 guineas for each inquest which any coroner of the county shall have held since the preceding assizes or presenting term; to be paid to the treasurer of such county, and by him to such coroner, proof being first made to the satisfaction of the grand jury of his having made due return of such inquest to said assizes or presenting term: Provided that the money to be so presented, at any one assizes, &c. shall not exceed 40 guineas. Provided also (s. 2.) that nothing herein shall extend to inquisitions held in gaols in the county or county of the city of Dublin.

Fees of coroners.

s. 2.

Proviso.

P. 248. l. 23.—The fifth section of the 1 Ann. st. 1. c. 8. Eng. (*vide* vol. 2. p. 1110.) which expressly enumerates commissions of the peace, should have been here referred to.

1 Ann. st. 1. c. 8. s. 5. Eng.

Commission of the peace.

P. 265. l. 8.—By the 49 Geo. 3. c. 84. I. whenever any grand jury of any county, county of a city, or county of a town, shall, at any assizes or presenting term, have presented any new road to be laid out and made between

49 Geo. 3. c. 84. s. 2. Ir.

Presentment for forming and levelling roads.

between any 2 market towns, or from any market town to the sea, pursuant to the 36 Geo. 3. c. 55. Ir. it shall be lawful for such grand jury, if they deem it expedient, to make a presentment for forming, levelling, and draining the same, distinct from the presentment for gravel-
 s. 11. ling or making it with small stones. And by s. 11. it shall be lawful for the grand jury of a county, county of a city, or county of a town, to present for the paving of a street or road by the square yard, instead of making or repairing the same by the perch with gravel or small stones.

Presentment for paving roads by the yard.

49 Geo. 3. c. 84. s. 8. 1.

Presentment for footpaths.

P. 265. l. 13.—By the 49 Geo. 3. c. 84. I. in lieu of the sums allowed by the 36 Geo. 3. c. 55. s. 9. Ir. for making and repairing of any footpath on any road, it shall be lawful for the grand jury at any assizes or presenting term, to present any sum not exceeding 3s. by the perch for making, and 1s. 6d. by the perch for repairing footpaths.

49 Geo. 3. c. 84. s. 27. 1.

Affidavits for presentments lodged 15 days before assizes.

Copies printed, &c.

s. 18.

Accounting affidavits for repairs what to state.

P. 266. l. 24.—By the 49 Geo. 3. c. 84. s. 27. I. all affidavits for presentments for forming, levelling, fencing, draining, widening, making, repairing, or otherwise improving any road, (and for the building, repairing, or otherwise improving any bridge, session-house, gaol, or other mason work,) shall be lodged 15 days at the least before the commission day of each assizes, with the secretary of the grand jury; and such secretary shall (provided he shall be ordered by the grand jury at the previous assizes so to do) cause copies of the schedules of such affidavits to be printed and ready for delivery at his office, 3 clear days before each assizes, to such magistrates and overseers of roads, or other public works, as may apply for the same: provided that the number so to be printed do not exceed 25 for each barony or half barony, and 25 for each county of a city, or county of a town. By s. 18. no affidavit for the accounting for the repairs of any road, shall be allowed by the grand jury or by the court at any assizes or presenting term, unless it shall be specially stated in such affidavit, that there is not on either side of any part of any road specified in such affidavit any grip, trench, or drain, without a wall
 or

or other sufficient fence between such grip, &c. and the side of such road. And by s. 19. grand juries are empowered to present for filling up such grips. But the 50 Geo. 3. c. 29. I. provides (s. 1.) that it shall be lawful for the grand jury and the court, at any assizes or October session, to allow any affidavit for the accounting for the repairs of any road, (not being a road on which his majesty's mails are conveyed in mail coaches or four-wheeled carriages drawn by 2 or more horses,) without its being stated "that there is not any grip, trench, or drain, without a wall or sufficient fence between the same and the side of the road:" provided it appears that no former grand jury presented a sum for making such wall or fence. And by s. 2. such form is also dispensed with in case of the temporary repairs of a mail coach road, where a new line is presented. The 49 Geo. 3. c. 84. I. further provides (s. 22.) that no accounting affidavit for the expenditure of any public money for any road, or for any public work, shall be allowed by the grand jury, or by the court, &c. unless it shall be stated in such affidavit, that the road or work was completed on some day, being not less than 6 clear days previous to the commission day of the assizes or presenting term, or to the first day of the October sessions; nor unless such affidavit be lodged with the secretary of the grand jury previous to the commission day of such assizes, or the first day of such October sessions; of which lodgment the secretary shall make oath in open court.

s. 19.

Presentments for filling up grips.

50 Geo.3.c.29. s. 1 & 2. I.

Proviso as to accounting affidavits for repairs.

49 Geo.3. c.84. s. 22. Ir.

Accounting affidavits to state that road was finished 6 days before assizes, &c.

P. 271. l. 15.—For the more speedily repairing sudden breaches in roads, and the bridges and gulleys thereon, the 49 Geo. 3. c. 84. I. enacts (s. 3.) that it shall be lawful for the grand jury of any county, &c. at any assizes, to appoint such and so many persons possessed of a freehold or leasehold estate of not less than £500. yearly value, who may be willing to act without any salary or allowance, to be supervisors of the roads in said county, &c. or of such part thereof as shall be specified by such grand jury, not exceeding 8 miles in length, for the purpose of superintending the same, and of preventing all nuisances and injuries thereto, and to remove any such

49 Geo. 3.c.84. s. 3. I.

Grand juries may appoint supervisors.

such supervisor, and appoint another in his stead; and it shall be lawful for every such supervisor to expend in every year any sum not exceeding 1s. a perch, in repairing, cleansing, and improving the roads within his district, and the bridges and pipes thereon, and removing nuisances; and every such supervisor may appoint one deputy or more with a salary not exceeding, for the whole of such deputies, a sum to be calculated after the rate of 2d. for each perch of the road of which he shall be so appointed supervisor; and such supervisor, or his deputy, shall have all such powers with respect to such roads, as are given to overseers and conservators by the 36 Geo. 3. c. 55. And by s. 4. grand juries are required to present such money as shall be necessary to reimburse such supervisors for all sums appearing (by such affidavit as hereby directed) to be advanced by them, and also for payment of such deputy or deputies, to be levied off the county, or any barony or half barony wherein such road is situate.

49 Geo. 3. c. 84.
s. 10. I.

*Repairs of
bridges.*

P. 277. l. 33.—The 49 Geo. 3. c. 84. I. provides (s. 10.) that it shall be lawful for any grand jury, in cases where the battlements of bridges shall have been lately built or repaired by presentments, to contract for keeping the same in repair for any term not less than 7 years; provided that no larger sum than 1s. shall be paid annually for every perch in length of such battlement; and provided that no money shall be paid, unless it shall appear to the grand jury, by the affidavit of the contractor, and the certificate of the conservator of the road in the barony in which the bridge is situate, or of a magistrate, that the said battlements are and have been kept in good and sufficient repair since the assizes preceding.

Poor laws.

P. 280. l. 40.—The 49 Geo. 3. c. 124. E. 50 Geo. 3. c. 49. G. B. 50 Geo. 3. c. 50. E. and 50 Geo. 3. c. 52. G. B. have made some alterations in the poor laws of England.

49 Geo. 3. c. 36.
I.

P. 287. l. 36.—By the 49 Geo. 3. c. 36. I. the provisions of the 45 Geo. 3. c. 111. I. relating to presenting and raising any sum not exceeding £500. in all counties in

in Ireland, shall extend to all counties of cities and Presentment for hospitals, &c.
 counties of towns in Ireland, for the erecting, establish-
 ing, supporting, and maintaining of any public infirma-
 ries or hospitals, wherein any special provisions have
 been made by any act in force in Ireland. Provided
 (s. 2.) that when in any such county of a city, &c. there
 shall be 2 or more infirmaries, &c. entitled to the bene-
 fits of the 45 Geo. 3. c. 111. such sum (not exceeding in
 the whole £500.) as shall be presented, &c. under said act,
 shall be equally divided amongst such infirmaries, &c.
 and be paid over by the treasurer of such county of a
 city, &c. to the respective treasurers of said infirmaries,
 &c.

P. 295. l. 24.—The 21 & 22 Geo. 3. c. 33. Ir. pro- 21 & 22 Geo. 3, c. 33. Ir.
 vides, that where 2 or more persons shall be appointed to
 any office in this kingdom under the king, by one patent, Any person qua-
 commission, or other appointment; and that such persons lifying once un-
 shall have once taken the oath of office, and performed der a joint pa-
 the other requisites prescribed by law, to qualify them- tent, &c. need
 selves for executing the same; and that any person not re-qualify if
 named in one patent, &c. shall be re-appointed, and re-appointed.
 continue without intermission, in any new or subsequent
 grant, &c. for executing said office, it shall not be ne-
 cessary for such person so re-appointed, &c. again to take
 such oath of office, or perform the other requisites, &c.

P. 314. l. 16 & 17.—The 2 Ric. 2. st. 2. c. 1. E. & I. 2 Ric. 2. st. 2. c. 1. E. & I.
 should be here also referred to as confirming the liberties
 of the church. And the 9 Edw. 2. st. 1. c. 14. E. & I. 9 Edw. 2. st. 1. c. 14. E. & I.
 also provided that elections to the dignities of the church 31 Edw. 3. st. 4. c. 1. Eng.
 should be free. The liberties of the church of Ireland Liberties of the church.
 were confirmed by the 31 Edw. 3. st. 4. c. 1. Eng.

P. 323. l. 3. The 9 Edw. 2. st. 1. c. 13. E. & I. de- 9 Edw. 2. st. 1. c. 13. E. & I.
 clares, that of the ability of a parson presented unto a
 benefice of the church, the examination belongeth to a Examination of parsons.
 spiritual judge.

P. 326. l. 8.—The 25 Geo. 3. c. 38. Ir. recites, that 25 Geo. 3. c. 38. s. 1 & 2. Ir.
 the clergy are often required to prove their induction
 and other qualifications, which, by the death of wit- Induction and other qualifica-
 nesses and loss of certificates, is frequently impractica- tions of clergy,
 ble; and therefore provides, that upon the mandate of how proved.

every ordinary for the induction of any person to any ecclesiastical preferment, a return shall be made by the person giving induction thereon, that induction hath been given upon such mandate; which mandate, together with the return thereon indorsed, as also the certificate of the persons attesting the assent and consent, and other qualifications of the person so inducted, shall be registered in the registry of the diocese wherein such preferment lies, and an entry thereof shall be made in the books of said office, the truth of such return and certificate being verified on oath by one or both of the witnesses attesting the same, to be by affidavit made before the register of such diocese; and any person who shall falsely make such oath, may be prosecuted for perjury. And by s. 2. such mandate, return, and certificate, and such affidavit, or a copy of such mandate, &c. attested by the register of the diocese, shall, in all courts, be admitted as evidence of such induction and other qualifications; and every register shall be entitled to 5s. for every such attested copy: provided that nothing herein shall deprive any ecclesiastical person of a right to prove the validity of his title in any other way by which he may now prove the same.

28 Hen.8. c.15.
s. 9. Ir.

*Oath at ordina-
tion to learn and
teach English
language, &c.*

*Oath of bene-
ficed clergy to
keep a school,
&c.*

P. 326. l. 8.—The 28 Hen. 8. c. 15. Ir. (the other clauses of which are of an obsolete nature) provides (s. 9.) that every archbishop, bishop, suffragan, and other having authority to give order of priesthood, deacon, and subdeacon, shall, at such time as they give to any person any of said orders, give unto such person taking any of said orders, a corporal oath, that he shall, to the uttermost of his power, wit, and cunning, endeavour himself to learn the English tongue and language, and use English order and fashions, (if he may learn the same by possibility in such place where his cure or dwelling shall be); and further shall endeavour himself to move, endoctrine, and teach all other being under his order, rule, and governance, to accomplish and perform the same: and every archbishop, and other having power to admit, &c. any person to any dignity, benefice, office, or promotion spiritual, shall, at the time of the admission

admission of such person, &c. give unto said person a corporal oath that he so admitted, &c. shall, to his wit and cunning, endeavour himself to learn, instruct, and teach the English tongue, to every being under his rule, cure, order or governance, [and likewise shall bid the beads in the English tongue,] and preach the word of God in English, if he can preach, and also for his own part shall use and exercise the English order and habit, and also provoke as many as he may to the same, and also shall keep, or cause to be kept, within the place or parish where he shall have rule, benefice, &c. a school for to learn English, if any children of his parish come to him to learn the same, taking for the keeping of such school such convenient stipend or salary as in said land is accustomably taken. And if any archbishop, &c. shall give orders to any person without giving the oath afore-
said, or shall admit, &c. any person to any dignity, &c. without giving to such person such oath as aforesaid, such archbishop, &c. shall forfeit £3. 6s. 8d. one moiety to the king, and the other to such person as shall sue for the same. And by s. 10. if any person being promoted, &c. to any dignity, &c. do not observe the said oath, then, upon condemnation by due process of law as aforesaid, he shall forfeit for the 1st time 6s. 8d. for the 2nd offence 20s. and if condemned a third time, such dignity, &c. shall be void, &c. Provided (s. 11.) that this act shall not be prejudicial to any person which shall be beneficed within this land, being bound to keep residence in any metropolitan, cathedral, or collegiate church, nor to any person so beneficed, who shall be at study in any university, either being in the king's service, or otherwise out of the land by the king's commandment, but such parish priest which shall have the service of any parish church under him, shall, during his absence, teach the English tongue, and keep a school according to the form of this act, upon pain of forfeiture to every such parish priest of 20s. for every year he shall omit the same.

These provisions enforced.

s. 10.

s. 11.

Proviso.

P. 333. l. 3.—The 43 Geo. 3. c. 107. G. B. confirms and amends the 2 & 3 Ann. c. 11. Eng. and 1 Geo. 1. st. 2. G. B.

c. 10.

*First fruits ap-
plicable to build-
ing, &c. parson-
age houses.*

c. 10. Eng. and provides (s. 3.) that where a living shall have been or shall be augmented by the governors of queen Anne's bounty, and there is no suitable parsonage house, the said governors may apply the money appropriated for such augmentation, or any part thereof, towards the building, rebuilding, or purchasing a house and other proper erections within the parish, convenient for the residence of the minister.

*7 Geo. 3. c. 9.
Ir.*

P. 335. l. 16.—The 7 Geo. 3. c. 9. Ir. (*vide* vol. 2. p. 86.) should have been here referred to.

Dilapidations.

*51 Geo. 3. c. 115.
U. K.*

*King and lords
of manors em-
powered to grant
lands for eccle-
siastical purposes*

P. 353. l. 28.—The 51 Geo. 3. c. 115. U. K. amends the 43 Geo. 3. c. 108. by enabling the king to grant lands within the survey of the court of exchequer, or of the duchy of Lancaster, not exceeding 5 acres, for or towards the erecting, rebuilding, repairing, purchasing, or providing any church or chapel where the liturgy of the united church shall be used, or any mansion house for the residence of the minister, or of any out-buildings, offices, church-yard, or glebe; and also empowering lords of manors to grant 5 acres of the waste of such manors, for erecting thereon or enlarging any such church or chapel, or for a church-yard or burying ground, or enlarging a church-yard, &c. or for a glebe for the rector, vicar, curate, or other minister, to erect a mansion house or other buildings, &c. thereon.

*49 Geo. 3. c. 53.
G. B.*

*Number of mi-
litia.*

s. 13.

*Penalty for bal-
lotted man not
serving, &c.*

s. 19.

*Yeomanry how
far exempted.*

s. 20.

P. 365. l. 4.—The 49 Geo. 3. c. 53. G. B. provides for the raising in the several counties in England and Scotland, a number of private militia men equal to one half of the original quotas of private men specified in the 42 Geo. 3. c. 90 & 91. and 37 Geo. 3. c. 25. And by s. 13. every person chosen by ballot under this act to serve in the militia (not being of the people called quakers) who shall refuse or neglect to appear and take the oath, and serve in the militia, or to provide a substitute, forfeits £20. By s. 19. persons inrolled in any corps of yeomanry or volunteers shall not be entitled to any exemption, unless such person shall have actually attended the usual muster and exercise of such corps for the number of days required by the 44 Geo. 3. c. 54. And by s. 20. no person shall be exempt from being ballotted to serve

serve under this act, by reason of his having been bal-
 lotted or inrolled to be trained and exercised under the
 training act 46 Geo. 3. c. 90. And by s. 25. to 28. a
 fine of £40. is to be assessed on the several counties,
 &c. for each man that is deficient. But the 51 Geo. 3.
 c. 20. G. B. provides (s. 29.) that the militia of Great
 Britain shall be gradually reduced to the quotas respec-
 tively specified in the 42 Geo. 3. c. 90 & 91. [*and 37
 Geo. 3. c. 25.] Provided (s. 30.) that it shall be lawful
 for his majesty, annually, to allow and order the raising,
 as supernumeraries for the militia of each county, over
 and above the quotas to which the militia is to be re-
 duced under this act, a number of men equal to the
 number allowed to enlist under this act into the regular
 forces, in each year, in each county.

*Proviso as to
training act.*

s. 25 to 28.

*Fine on counties
&c.*

51 Geo. 2.c.20.

G. B.

*Number of mi-
litia.*

s. 30.

*Supernumera-
ries.*

P. 365. l. 4. A body of miners was raised in the
 counties of Cornwall and Devon, in pursuance of the
 38 Geo. 3. c. 74. Eng. but this act was repealed by the
 42 Geo. 3. c. 72. E. The 51 Geo. 3. c. 114. E. is an act
 to permit the services of this regiment of miners to be
 extended to Ireland.

*42 Geo.3.c.72.
E.*

*51 Geo.3.c.114.
E.*

*Miners of Corn-
wall and Devon*

P. 365. l. 4. The 51 Geo. 3. c. 118. U. K. provides
 (s. 1.) that all persons who may be commissioned, raised,
 and inrolled in and for the regular militia of Great Bri-
 tain, or in and for the militia of Ireland, at any time
 after the passing of this act, (1st July, 1811.) shall be
 liable to serve in all parts of the united kingdom. And
 by s. 6. the force so to be raised shall be called, "The
 militia of the united kingdom." And by s. 11. his ma-
 jesty is empowered to employ in any part of the united
 kingdom, any part of the present militia force of Great
 Britain or Ireland as may make a voluntary offer of ex-
 tending their services into all parts of the united kingdom.

*51 Geo.3.c.118.
U. K.*

*Interchange of
militia.*

P. 367. l. 31. The 49 Geo. 3. c. 120. I. is an act for
 amending and reducing into one act of parliament the
 several laws for raising and training the militia of Ire-
 land: and accordingly defines the number of regiments
 or battalions, and the number of companies in each,
 which shall be for the respective counties, and in the ci-
 ties

*Number, &c. of
Irish militia.*

*49 Geo.3.c.120
s. 2 & 3. l.*

* An act for the better raising and ordering the militia forces of the Tower
 Hamlets in the county of Middlesex.

- ties of Dublin, Cork, and Limerick. But by s. 3. the lord lieutenant and council may augment regiments not having 10 companies. By s. 4. the colonels of regiments or battalions are to be appointed by the lord lieutenant. And by s. 10. the colonel shall appoint the other officers subject to the disapprobation of the lord lieutenant: and all officers of the said militia shall rank with the officers of his majesty's forces as youngest of their respective ranks. By s. 12. the commanding officer for the time being of each regiment, &c. shall have the chief command of such regiment, &c. and not the governor of the county. By s. 15 to 20. the qualification in respect of property is prescribed for the respective officers, with an exception as to peers, and the heirs apparent of peers. By s. 34. the acceptance of any commission in any regiment, &c. shall not vacate the seat of any member returned to serve in parliament. By s. 65. the governors of counties, &c. may appoint deputy governors for carrying this act into execution, subject to the disapprobation of the lord lieutenant: And by s. 66. in default of appointment by the governors, the lord lieutenant may appoint such deputy governors. By s. 67. there shall be 20 deputy governors in each county if so many shall be found qualified. By s. 68. the lord lieutenant may displace deputy governors. By s. 70. the chief magistrates of the cities of Dublin, Cork, and Limerick, and town of Drogheda, and the colonels of the militia of said counties of cities, and of the county of Louth, shall be governors of said cities and town. By s. 79. to 102. the proceedings of the governors and deputy governors, at their general meetings and subdivisional meetings, with respect to balloting for men to form regiments or supply vacancies, are regulated. And by s. 102. every ballotted man shall find a surety in £20. for his appearance at the subdivisional meetings until discharged or inrolled, or in default thereof he shall be delivered over to the proper officer of the militia. And by s. 114. if any ballotted man (who shall not be excused from serving, or produce a substitute,) shall not immediately inrol himself, and join the regiment, &c. he may be apprehended as a deserter, and
- s. 4.
Colonels how appointed.
- s. 10.
Other officers.
- s. 12.
Governors not to command militia.
- s. 15 to 20.
Qualification for officers.
- s. 34.
Officers members of parliament.
- s. 65 to 68.
Deputy governors how appointed, &c.
- s. 70.
Who governors in cities, &c.
- s. 79 to 102.
Duties of governors, &c.
- s. 102 to 114.
Ballotted men, how compellable to serve.

and shall be fined £5. By s. 96. no peer, nor commissioned officer in his majesty's other forces, &c. nor any non-commissioned officer or private serving in any of his majesty's forces, nor any commissioned officer serving or who has served 4 years in the militia, nor any person inrolled in any troop or company of yeomanry, who shall produce a certificate from the commanding officer of such troop, &c. that he has punctually attended the exercise of the troop, &c. for 3 months, immediately preceding the day on which he shall have been ballotted to serve in the militia according to the provisions of the 42 Geo. 3. c. 68. nor any person being a member of the university, nor any clergyman or licensed teacher of any separate congregation, nor any justice of peace, constable, or other peace officer, nor any articulated clerk, apprentice, seaman, or seafaring man, nor any person doing duty in his majesty's ordnance, or under the directions of the board of ordnance, nor any poor man not worth £10. in goods, or who does not pay £5. a year rent for lands, tenements, and cottage or crophold, for the crop or by the year, who has more than 3 children born in wedlock living, and under the age of 14, shall be liable to serve personally or provide a substitute. By s. 119. quakers shall provide substitutes, or the expense be levied on their goods. By s. 124. the lord lieutenant may authorize the raising of men by means of assessment at vestry, rather than by ballot. And by s. 130. the lord lieutenant is also empowered to direct that the necessary number of men, either for the whole or any regiment or battalion of militia, shall be raised by the inrolling and receiving volunteers. By s. 141. if the number of men appointed to be raised for any regiment, &c. of militia, shall not be raised within 3 calendar months after the time when the same ought to be raised by ballot, or within 4 months from the date of the order for raising the same by inrolling volunteers, then the county, &c. in which such number of men should be raised, shall be charged with the yearly sum of £10. in lieu of every private militia man so deficient. By s. 39. when the militia shall not be drawn out into actual service, the se-

s. 96.

Persons exempted from serving in the militia.

s. 119.

Proviso as to quakers.

s. 124.

Assessment for raising men.

s. 130.

Receiving volunteers.

s. 141.

County, &c. how fined if number of men deficient.

s. 39.

Training of militia.

- veral regiments, &c. thereof, (unless the lord lieutenant shall order the contrary) shall be trained and exercised in their respective counties, once in every year, for 28 days, at such time and place as shall be least inconvenient to the public, to be appointed by the governor of the county, or by the governors (if more than one) at their general meeting upon the Tuesday before the 24th October in every year, or in default of such appointment by 3 or more deputy governors; and during the time that the militia shall be so assembled, they shall be subject to the mutiny act, but so that no punishment shall extend to life or limb. And by s. 55. in all cases of actual invasion, rebellion, or insurrection, or upon immediate danger thereof, to be signified by proclamation from the lord lieutenant, it shall be lawful for the lord lieutenant to order the militia, or any part thereof, to be drawn out and embodied, and to put said forces under the command of general officers; and while they shall be so embodied, and until they shall be returned to their respective parishes, they shall be subject to the mutiny act. By s. 27. every adjutant, paymaster, surgeon, serjeant major, quarter master, serjeant, corporal, drum major, and drummer of the militia, shall be at all times subject to the mutiny act, and articles of war.
- s. 55. *Service in cases of invasion, &c.*
- s. 27. *Adjutants, &c. always subject to mutiny act, &c.*
- 51 Geo. 3. c. 30. l. The 51 Geo. 3. c. 30. I. amends the former acts for enabling his majesty to accept the services of volunteers for the regular army from the militia of Ireland.
- 49 Geo. 3. c. 40. s. 17 & 18. E. *P. 370. l. 8.* The 49 Geo. 3. c. 40. E. has amended the 48 Geo. 3. c. 111. in several respects, but the following clauses only seem to be material to be noticed in this work. By s. 17. all officers of the local militia holding the rank of lieutenant colonel commandant, shall take rank of and command all other lieutenant colonels serving in the said local militia, notwithstanding the commissions of the latter shall be prior to those of the former. And by s. 18. all officers of yeomanry corps, shall rank with the officers of the local militia according to the dates of their respective commissions. By s. 27. no person shall be exempt from serving the office of sheriff by reason of holding a commission in the local militia.
- s. 27. *Officers not exempt from being sheriffs.*

militia. The clause of the 48 Geo. 3. in respect to giving bounties, is repealed by s. 11. of this act, which provides, that the several parishes in their vestries may agree to give two guineas bounty besides necessaries. By s. 23. his majesty, by an order notified by his secretary of state, upon the application of the lieutenant of any county, may, for the more convenient training and exercising of the local militia of such county, or any regiment thereof, order them to be marched into any adjoining county. By s. s. 31. no officer, non-commissioned officer, or private, shall be subject to the mutiny act, or articles of war, except during such time as he shall be receiving the pay of his rank in the local militia, or shall be called out, or assembled or embodied, under any of the provisions of the 48 Geo. 3. c. 111. Some amendments in the law respecting the local militia are also made by the 49 Geo. 3. c. 82. G. B. and 50 Geo. 3. c. 25. G. B.

s. 23.

Militia removable into adjoining county.

s. 31.

Officers, &c. when subject to mutiny act, &c.

P. 379. l. 24. The 51 Geo. 3. c. 8. U. K. (which is the last mutiny act) amends the clause of the 48 Geo. 3. c. 15. s. 41. by excepting from the billeting clause, canteens held and occupied under the authority of the commissioners for the affairs of barracks; and also amends the clause s. 72. (*vide* vol. 1. p. 380,) for the relief of persons hastily enlisting themselves, by requiring that in addition to the sum of 20s. thereby required to be paid, the full rate allowed by law for the subsistence or diet, and small beer furnished to such recruit subsequent to the period of his having enlisted, shall also be paid. And also enables any justice of peace to discharge such recruits, notwithstanding no officer, non-commissioned officer, or private soldier belonging to the recruiting party, shall be with any such recruit, if it shall appear to such magistrate that the recruiting party has left the place where such recruit was enlisted, or that such recruit could not procure any non-commissioned officer belonging to such party to go with him before such justice. But by s. 76. no person who shall not have remained with or shall not have returned to the recruiting party enlisting him, shall be entitled to be discharged,

51 Geo. 3. c. 8. s. 43. U. K.

Billeting soldiers.

s. 75.

Recruits hastily enlisting, discharged.

s. 76.

unless it shall be proved to the justice or magistrate, that the true name and residence of the person enlisted was disclosed and known to the recruiting party, and that no notice was given to the enlisted person, or left at his last usual place of abode, of his having so enlisted.

5 Eliz. c. 5. Eng. *P. 381. l. 6.*—The 5 Eliz. c. 5. Eng. should have been here referred to as one of the statutes which laid the foundation of the British navy, by encouraging trade in British shipping.

49 Geo. 3. c. 41. U. K. *P. 383. l. 10.*—The 49 Geo. 3. c. 41. U. K. amends the 48 Geo. 3. c. 70. by providing that every British-built ship or vessel recaptured from the enemy by any of his majesty's ships of war, or by any ship or vessel having letters of marque and reprisal, or by any ship or vessel of war belonging to any state in alliance with his majesty, may be registered, and shall have the privilege of a British-built ship, &c.

27 Geo. 3. c. 19. Eng. *P. 384. l. 16.*—The 27 Geo. 3. c. 19. Eng. recites, that the 27 Geo. 3. c. 23. Ir. had been passed; and enacts, that every ship or vessel which shall be duly registered in any port in Ireland according to the regulations of said act, and shall obtain a certificate thereof, shall enjoy all the privileges of a British-built or foreign built ship owned by his majesty's subjects.

51 Geo. 3. c. 9. U. K. *P. 385. l. 4.*—The 51 Geo. 3. c. 9. U. K. is the last act for the relief of his majesty's royal marine forces while on shore.

32 Geo. 3. c. 56. s. 1. Eng. *P. 388. l. 2.*—The 32 Geo. 3. c. 56. Eng. provides, that if any person shall falsely personate any master or mistress, or the executor, administrator, wife, relation, house-keeper, steward, agent, or servant of any such master or mistress, and shall either personally, or in writing, give any false, forged, or counterfeited character to any person offering himself to be hired as a servant; or (by s. 2.) shall knowingly and wilfully pretend, or falsely assert, in writing, that any servant has been hired or retained for any time, or in any station, other than that for which he shall have hired, &c. such servant in his service, or for the service of any other person; or (by s. 3.) shall knowingly and wilfully pretend, or falsely assert

Ships recaptured to have the privilege of British ships.

Ships registered.

Marine forces.

Personating master, &c. and giving false character of servant;

s. 2.

Or falsely certifying as to the time of service or station;

assert

assert, in writing, that any servant was discharged or left his service at any other time than that at which he was discharged or actually left such service, or that any such servant had not been hired or employed in any previous service, contrary to truth; every person so offending shall forfeit, and undergo the penalty or punishment herein-after mentioned. And by s. 4. if any person shall offer himself as a servant, asserting or pretending that he hath served in any service in which he shall not actually have served, or with a false, &c. certificate of his character, or shall add to or alter, efface or erase any word, date, matter, or thing contained or referred to in any certificate given to him or her by his or her last or former actual master or mistress, or by any other person duly authorized to give the same; or (by s. 5.) if any person having before been in service, shall, when offering to hire himself, falsely and wilfully pretend not to have been hired or retained in any previous service as a servant; such person shall forfeit and undergo the penalty or punishment herein-after mentioned. By s. 6. any person who shall be convicted of any of the offences aforesaid, by his confession, or the oath of a witness, before 2 or more justices of peace for the county, &c. where the offence shall have been committed, shall forfeit £20. one moiety to the person on whose information the party shall be convicted, and the other to the use of the poor of the parish wherein the offence shall have been committed; and if such party shall not pay the said £20. together with 10s. for the costs of such conviction, or shall not give notice of appeal, and enter into recognizance as herein-after mentioned, such justice shall commit every such offender to the house of correction, or some other prison of the county, &c. in which he shall have been convicted, to be kept to hard labour for any time not exceeding 3 months, nor less than 1 month, or until he shall pay the said forfeiture with such costs. And by s. 7. the informer in any of said cases, shall be a competent witness, though entitled to a part of said penalty. Provided (s. 8.) that if any servant who shall have been guilty of any of the offences aforesaid,

s. 3.

Or as to the time of his being discharged, &c.;

s. 4.

Or if any person shall offer himself as a servant with a false certificate, or altered certificate;

s. 5.

Or shall pretend not to have been hired before;

s. 6.

Such offences, how punished.

s. 7.

Informer a competent witness.

s. 8.

Offenders discovered others concerned, indemnified.

s. 9.

Form of conviction.

s. 10.

Appeal to sessions.

aforesaid, shall, before any information has been given or lodged against him, inform against any person concerned with him in any offence against this act, so as such offender be convicted as aforesaid, he shall be discharged and indemnified from and against all penalties and punishments to which at the time of such information he might be liable by this act. By s. 9. a form is prescribed in which, or in words to the same effect, all convictions shall be drawn. But by s. 10. any person aggrieved may appeal to the justices at the next general or quarter sessions of the peace to be held for the county or place wherein the cause of complaint shall have arisen, such appellant entering into a recognizance with 2 sufficient sureties in £20. each, conditioned to try such appeal, and abide the order of, and pay such costs as shall be awarded at such sessions, upon due proof of such notice being given as aforesaid, and of the entering into such recognizance; which justices shall finally determine the matter of such appeal, in a summary way, and award such costs to the parties appealing or appealed against as the justices shall think proper, and the determination of such sessions shall be final; and no conviction or order made concerning any matters aforesaid, shall be quashed for want of form, or removed by *certiorari*, or other writ or process, into any court of record at Westminster.

51 Geo. 3. c. 80. E.

Indentures for binding parish apprentices, how executed.

P. 394. l. 15.—The 43 Eliz. c. 2. Eng. is amended by the 51 Geo. 3. c. 80. E. which provides, that all indentures for the binding of parish apprentices, [and all certificates of the settlements of poor persons,] executed and signed by 2 persons only, acting or purporting to act in the capacity of church-wardens as well as of overseers of the poor, shall be as valid as if the same had been executed and signed by distinct persons as church-wardens, and distinct persons as overseers of the poor, according to the 43 Eliz. c. 2.

51 Geo. 3. c. 8. s. 80. U. K.

Punishment of apprentices, enlisting.

P. 397. l. 29.—The 51 Geo. 3. c. 8. U. K. (which is the last mutiny act) provides, that if any person duly bound as an apprentice, shall enlist as a soldier in his majesty's land service, and shall state to the justice of peace

peace or magistrate before whom he shall be carried, that he is not an apprentice, and be thereof duly convicted, he shall be liable to be imprisoned in any gaol or house of correction, and kept to hard labour for 2 years, may be indicted and punished for obtaining money under false pretences, under the provisions of the 30 Geo. 2. c. 24. Eng.* and shall after his apprenticeship, (whether he shall have been so convicted or punished, or not,) be liable to serve in any regiment of his majesty's regular forces; and if, on the expiration of his apprenticeship, he shall not deliver himself to some officer authorized to receive recruits, he shall be taken as a deserter. And the 51 Geo. 3. c. 9. U. K. contains a similar clause in respect to apprentices enlisting as marines. The 51 Geo. 3. c. 20. G. B. enacts (s. 28.) that all the provisions of the mutiny act in relation to apprentices, or their masters, shall extend to all apprentices who shall enlist or inrol themselves as substitutes or volunteers in the regular militia, and the masters of such apprentices.

51 Geo. 3. c. 9.
U. K.

51 Geo. 3. c. 20.
s. 28. G. B.

*Apprentices en-
listing into mi-
litia, punishable*

P. 407. l. 2.—The 51 Geo. 3. c. 37. I. recites, that it is expedient that the provisions of the 15 Geo. 2. c. 30. Eng. should be extended to Ireland; and therefore enacts, that from the expiration of 10 days after the passing of this act (31 May 1811,) in case any person who has been, or shall be found a lunatic, by any inquisition taken by virtue of a commission under the great seal of Great Britain, or the great seal of Ireland, or any lunatic or person under a phrenzy, whose person and estate by virtue of any act of parliament now or hereafter shall be committed to the care and custody of particular trustees, shall marry before he or she shall be declared of sane mind by the lord chancellor of Great Britain or Ireland, or such trustees, or the major part of them, as the nature of the case shall require, every such marriage shall be void.

51 Geo. 3. c. 37.
I.

*Marriages of
lunatics void.*

P. 416.

* It seems that this clause should also have referred to the 26 Geo. 3. c. 27. Ir. which relates to the offence of obtaining money under false pretences.

49 Geo.3. c 68.
E.

*Reputed fathers
of bastards to
what expenses
and costs liable.*

s. 2.

*Duty of justice
of peace in re-
spect to appre-
hending, &c.
persons sworn
against by wo-
men likely to be
delivered of
bastards.*

P. 416. l. 37. By the 49 Geo. 3. c. 68. E. every person who shall be adjudged to be the reputed father of any bastard child, shall be liable to all reasonable expenses incident to the birth of such child, and also to the payment of the reasonable costs of apprehending and securing such reputed father, and also of the costs of the order of filiation; such costs of apprehending, &c. and of the order of filiation, not to exceed £10.; and all such charges shall be ascertained on oath before the justices of peace or the court of quarter session making such order of filiation. And by s. 2. if any single woman shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable to any parish, township, or extra-parochial place, in an examination to be taken in writing upon oath before any justice of peace of any county, &c. wherein such parish, &c. shall lie, it shall be lawful for such justice, upon application made to him by the overseer of the poor of such parish or township, or by any substantial household-er of such extra-parochial place, to issue his warrant for apprehending such person so charged, and for bringing him before such justice, or before any other justice of peace of such county, &c.; and such justice shall commit such person to the common gaol or house of correction of such county, &c. unless he shall give security to indemnify such parish or place, or shall enter into a recognizance, with sufficient surety, upon condition to appear at the next quarter sessions or general sessions of the peace for such county, &c. to abide and perform such order as shall be made in pursuance of the 18 Eliz. c. 2. unless one such justice shall have certified in writing under his hand to such quarter sessions or general sessions, that it hath been proved before him upon the oath of a witness, that such single woman had not been then delivered, or had been delivered within a month only previous to the day on which such quarter sessions or general sessions shall be holden, or unless 2 justices of peace of such county, &c. shall have certified in writing under their hands to the next, or where such woman shall not have been delivered as aforesaid, then to the immediately subsequent quarter sessions or general sessions,

sessions, that an order of filiation had been already made on the person so charged, or that such order was not then requisite to be made, on account of the death of the child born a bastard, or for other like sufficient reason; in each of which cases first before mentioned, it shall be lawful for the justices at such quarter sessions or general sessions, to respite such recognizance to the next quarter sessions or general sessions, without requiring the personal attendance of the putative father so bound, or that of his surety, and in either of the two last mentioned cases, it shall be lawful for the justices assembled as aforesaid, to discharge such recognizance. By s. 3. if any reputed father or any mother of such bastard child, on whom any order of filiation or maintenance of such child shall have been made by the court of quarter sessions, or by 2 justices of peace, and confirmed by the quarter sessions, or against which no appeal shall have been made to the quarter sessions, shall neglect or refuse to pay any sum of money which he shall have been ordered to pay towards the maintenance or other sustentation for the relief of such bastard child, any justice of peace of the county, &c. in which such reputed father or mother shall be, shall, upon complaint made by an overseer of the poor of any parish, &c. liable to the maintenance of such bastard child, or where such bastard child shall be, and upon proof on oath of such order for the payment of such sum of money, and of such sum being unpaid, and of a demand of such payment having been made, and a refusal to pay the same, or that such reputed father or mother hath left his or her usual place of abode, and hath avoided a demand thereof being made by such overseer, issue his warrant to apprehend such reputed father or mother, and to bring him or her before such justice, or any other justice of such county, &c. to answer such complaint; and if such reputed father or mother shall not pay such sum as shall appear to the justice before whom he or she shall be brought, to be due, or shall not shew some sufficient cause for not so doing, such justice shall commit such reputed father or mother to the house of correction or

s. 3.

Maintenance of bastards by reputed fathers or mothers enforced

s. 4.
*Expenses and
 costs, how ascer-
 tained.*

s. 5.
*Appeal to quar-
 ter sessions.*

s. 6.
*Clause of 6
 Geo. 2. c. 31.
 Eng. repealed.*

common gaol of said county, to be kept to hard labour for 3 months, unless he or she shall, before the expiration of said 3 months, pay to one of the overseers of the poor of the parish, &c. the said sum so due, and so from time to time, and as often as such reputed father or mother shall neglect or refuse to pay any other sum that shall become due by virtue of such order after any former imprisonment. Provided (s. 4.) that all such charges shall be at the discretion of the justices or court of quarter sessions, who shall make such order of filiation; and such justices, &c. may order the payment of the whole or any part thereof: provided that the costs of apprehending, &c. the reputed father or mother, and of the order of filiation, shall not exceed £10.; and for securing the same, all the powers, &c. of the 18 Eliz. c. 3. shall be used. By s. 5. any person aggrieved by any order made by such justices under this act, and not originating in the quarter sessions, may appeal to the next quarter sessions to be holden for the county where such order shall be made, on giving notice to such justices, or one of them, and also to the church-wardens and overseers of the poor of the parish on whose behalf such order shall have been made, or to one of them, 10 clear days before such quarter sessions, of his intention of bringing such appeal, and of the cause and matter thereof, and entering into a recognizance within 3 days after such notice, before some justice of peace for such county, with sufficient surety conditioned to try such appeal, and abide the judgment and order of, and pay such costs as shall be awarded by the justices at such quarter sessions; which justices at their sessions, upon proof of such notice being given, and of entering into such recognizance as aforesaid, shall determine such appeal, and give such relief and costs as they shall judge proper; and such judgments and orders shall be final. By s. 6. so much of the 6 Geo. 2. c. 31. Eng. as authorizes the justice before whom the reputed father of a bastard child shall be brought, in cases where the woman has not been delivered, to commit him to the common gaol or house of correction, unless he shall give security to indemnify the

the parish or place, or shall enter into a recognizance to appear at the next quarter or general sessions, is repealed. And by s. 7. no appeal relating to bastardy shall be brought or heard at the quarter sessions, unless such notice shall have been given, and such recognizance shall have been entered into, in manner aforesaid.

s. 7.

No appeal in cases of bastardy without notice and recognizance.

P. 417. l. 31.—The 35 Geo. 3. c. 101. Eng. provides (s. 6.) that every unmarried woman with child, shall be taken to be a person actually chargeable, and may be removed as such, to the place of her last legal settlement; and in case any such order of removal shall be suspended for any of the reasons in this act mentioned, and during such suspension the said woman shall be delivered of any child, which by law shall be a bastard, such bastard child shall be deemed to be settled in the same parish, township, or place, in which was the legal settlement of the mother at the time of her delivery: provided that all acts heretofore made touching bastard children, or concerning the mothers or reputed fathers of such children, shall remain in force as well in cases where by this act the place of settlement of such bastard is directed to be the same as that of the mother, as in cases where the place of settlement of such bastard child remains the same. The 33 Geo. 3. c. 54. Eng. (which is an act for the encouragement and relief of friendly societies) provides (s. 25.) that every child which shall be born a bastard in any parish, township, or place, during the mother's residence therein under the authority of this act, shall be deemed to have the same settlement which the mother has or is entitled unto at the time of the birth of such child. The 51 Geo. 3. c. 79. E. provides (s. 7.) that no bastard child which shall be born of any lunatic, insane person, or dangerous idiot, in any asylum erected in pursuance of the provisions of the 48 Geo. 3. c. 96. or this act, shall thereby gain a settlement in the parish in which such asylum shall be situated; but the place of the legal settlement of such child so born, shall be in the parish where the mother of such child was last legally settled.

35 Geo. 3. c. 101. s. 6. Eng.

Settlement of bastards.

33 Geo. 3. c. 54. s. 25. Eng.

51 Geo. 3. c. 79. s. 7. E.

49 Geo. 3. c. 126.
U. K.

*Provisions of the
5 & 6 Edw. 6.
c. 16. Eng.
extended to
Scotland and
Ireland.*

*To what offices
it shall extend.*

s. 2.

*Forfeitures to
vest in king.*

s. 3.

*Persons selling,
&c. offices con-
trary to this act,
how punished.*

P. 442. *l.* 24.—The 49 Geo. 3. c. 126. U. K. recites the 5 & 6 Edw. 6. c. 16. Eng. and enacts, that all the provisions therein contained shall extend to Scotland and Ireland, and to all offices in the gift of the crown, or of any office appointed by the crown, and all commissions, civil, naval, or military, and to all places and employments, and to all deputations to any such offices, &c. in the respective departments or offices, or under the appointment, and superintendance and controul of the lord high treasurer or commissioners of the treasury, the secretary of state, the lords commissioners for executing the office of lord high admiral, the master general and principal officers of his majesty's ordnance, the commander in chief, the secretary at war, the paymaster general of his majesty's forces, the commissioners for the affairs of India, the commissioners of the excise, the treasurer of the navy, the commissioners of the navy, the commissioners for victualling, the commissioners of transports, the commissary general, the store-keeper general, and also the principal officers of any other public department or office of his majesty's government in any part of the united kingdom, or in any of the dominions, &c. of his majesty, and also to all offices, &c. belonging to, or under the appointment or controul of the united company of merchants of England trading to the East Indies. Provided (s. 2.) that where the right or interest of any person shall be forfeited under any of the provisions of the said act, or of this act, the right of such appointment shall immediately vest in the king. And by s. 3. if any person shall sell or bargain for the sale of, or receive or take any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond, or assurance, or shall by any way, device or means, contract or agree to receive or have any money, &c. and also if any person shall purchase or bargain for the purchase of, or give or pay any money, &c. or make or enter into any promise, &c. to give or pay any money, &c. for any office, &c. specified in or within the intent of said act, or this act, or for any deputation thereto, or for any part of the

the profits thereof, or for any appointment or nomination thereto, or resignation thereof, or for the consent or voice of any person to any such appointment, &c. every such person, and every person who shall wilfully and knowingly aid, abet, or assist such person therein, shall be deemed guilty of a misdemeanor. And by s. 4. if any person shall receive or take any money, &c. directly or indirectly, or take any promise, &c. or by any way contract or agree to receive any money, &c. for any interest, solicitation, petition, request, recommendation, or negociation, made or to be made, or pretended to be made, or under any pretence of making or procuring to be made, any interest, &c. in or about any nomination, appointment, or deputation to, or resignation of any such office, &c. or under any pretence for using or having used any interest, &c. in or about any such nomination, &c. or for the obtaining or having obtained the consent or voice of any person to such nomination, &c.; and also if any person shall give or procure to be given any money, &c. or make or cause to be made any promise, &c. or by any way contract or agree to give or cause to be given any money, &c. for any solicitation, &c. made or to be made, that shall in any wise relate to any nomination, &c. to or of any such office, &c. or for the obtaining or having obtained, directly or indirectly, the consent or voice of any person to any such nomination, &c.; and also if any person shall for or in expectation of gain, fee, gratuity, loan of money, reward, or profit, solicit, recommend, or negotiate for any person in any matter that shall in any wise concern any such nomination, &c. or for the obtaining, directly or indirectly, the consent or voice of any person to any such nomination, &c. every such person, and also every person who shall wilfully and knowingly aid, abet, or assist such person therein, shall be deemed guilty of a misdemeanor. By s. 5. if any person shall open or keep any house, room, office, or place for the soliciting, transacting, or negotiating any business relating to vacancies in, or the sale or purchase of, or appointment, nomination, or deputation to, or resignation, transfer, or exchange of

s. 4.

Persons corruptly soliciting, &c. for such offices, guilty of a misdemeanor.

s. 5.

Persons keeping houses, &c. for the sale, &c. of offices, guilty of a misdemeanor.

of

*Penalty for ad-
vertising offices,
&c. to be kept
for the purposes
aforesaid.*

s. 6.

Offices excepted.

s. 7.

s. 8.

Proviso.

of any office, commission, place, or employment in or under any public department, every such person, and every person who shall wilfully and knowingly aid, abet, or assist therein, shall be guilty of a misdemeanor. By

s. 6. if any person shall advertise or publish, (or cause, &c.) any house, room, office, or place, to have been or to be opened, set up, or kept for any of the purposes aforesaid, or advertise, &c. the name of any person as broker, agent, or solicitor for any of the purposes aforesaid, or print, (or cause, &c.) any advertisement or proposal for any of the purposes aforesaid, such person shall forfeit £50. to be recovered in any court of record at Westminster, as to offences committed in England, or at Dublin as to offences committed in Ireland, or in Scotland as to offences committed in Scotland; and the whole of such penalty shall go to the person who shall sue for the same, with full costs. Provided (s. 7.) that nothing in this act shall extend to any purchases, sales, or exchanges of any commissions or appointments in the band of gentlemen pensioners, or in his majesty's yeoman guard, or in the marshalsea, and the court of the king of the palace of the king at Westminster; or extend to any purchases, sales, or exchanges of any commissions in his majesty's forces, for such prices as shall be fixed by any regulation made or to be made by his majesty in that behalf, or to any act done in relation thereto, by any agents, provided that such agents shall be agents of regiments authorized by the commander in chief of his majesty's forces, or by the colonels or commandants of regiments or corps, and shall act therein under such regulations only as are or shall from time to time be established by his majesty, and shall not cause or procure, or knowingly permit to be printed or advertised, any advertisement or proposal for any purchase or sale, or exchange of any commission, or any negotiation relating thereto, and shall not receive any money, &c. or any promise, &c. or, by any way, contract, or agree to receive any money, &c. for acting in such behalf. Provided (s. 8.) that every officer in his majesty's forces who shall receive or pay, or agree to pay, any larger

larger sum of money, directly or indirectly, than what is allowed by any regulations made by his majesty in relation to the purchase, sale, or exchange of commissions in his majesty's forces, or who shall pay (or cause, &c.) any sum of money to any agent or broker, or other person, for negotiating the purchase, or sale or exchange of any such commission, shall, on being convicted thereof by a general court martial, forfeit his commission, and be cashiered; and such commission shall be sold, and half the regulated value (not exceeding £500.) shall be paid to the informer, and the other half, or the remainder, if more than £500. shall be applied as his majesty shall direct, by any regulation made in that behalf: Provided also, that every person who shall sell his commission in his majesty's forces, and not continue to hold any commission therein, and shall upon such sale receive any money, &c. or any promise, &c. or shall by any means contract or agree to have any money, &c. beyond the regulated price or value of the commission sold, and also every person who shall willingly or knowingly aid, abet, or assist such person therein, shall be deemed guilty of a misdemeanor. By s. 9. nothing in this act shall extend to any office excepted from the provisions of the 5 & 6 Edw. 6. c. 16. against buying and selling of offices, or to any office which was legally saleable before the passing of this act, and in the gift of any person by virtue of any office by which such person is or shall be possessed under any patent or appointment for his life, or to render invalid, or in any manner to affect any promise, agreement, covenant, contract, bond, assurance, or trust, entered into or declared before the passing of this act, and which before the passing thereof was a valid promise, &c. in law or equity, or to any money paid, or to any act done in pursuance of such promise, &c. And by s. 10. nothing in this act shall make void any deputation to any office, in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance, lawfully made in respect of any allowance, salary, or payment made or agreed to be made by or to such principal or deputy, out of the fees or profits of such

s. 9.

Proviso as to sales, &c. lawful before the passing of this act.

s. 10.

Proviso as to deputations, &c.

- s. 11. *Proviso as to reservations out of the fees, &c. of offices.* such office. And by s. 11. nothing in said act or in this act, shall extend to any annual reservation, charge, or payment made or required to be made out of the fees, perquisites, or profits of any office, to any person who shall have held such office, in any commission or appointment of any person succeeding to such office, or to any agreement, &c. made for securing such reservation, &c. : Provided that the amount of such reservation, &c. and the circumstances under which the same shall have been permitted, shall be stated in the commission, patent, warrant, or instrument of appointment of the person so succeeding to and holding such office, and paying or securing such money as aforesaid. And this act recites, (s. 12.) that the parliament of Ireland never enacted any provisions similar to those of the 5 & 6 Edw. 6.; and therefore provides, that it shall be lawful for the masters and six clerks, and first and second examiners of the court of chancery in Ireland, (except *George Ellis Esq. one of the masters of said court,) so to proceed touching the disposition and appointment of their offices, as hath been accustomed; but that after the death, resignation, or removal of each of them, and the actual appointment of any person in the stead of them so dying, &c. the provisions of the 5 & 6 Edw. 6. and of this act, shall be applicable to the said respective offices. By s. 13. every person who shall commit in Scotland any offence against this act, which is constituted a misdemeanor, shall be liable to be punished by fine and imprisonment, or by the one or the other of such punishments as the judge, &c. may direct. And by s. 14. all offences committed against the 5 & 6 Edw. 6. or this act, by any governor, lieutenant governor, or person having the chief command, civil or military, in any of his majesty's dominions, or his secretary, shall be inquired of, &c. in the king's bench at Westminster, in like manner as offences committed by persons holding public employments abroad, may be prosecuted under the provisions of the 42 Geo. 3. c. 85. G. B. Provided (s. 15.) that nothing in the 5 & 6 Edw. 6. or this act, shall extend to Gibraltar, Malta, or any place in the Mediterranean, until 3 months;
- s. 12. *Sale of office of master in chancery, or six clerk in Ireland, prohibited.*
- * The present master's name is Thomas Ellis
- s. 13. *Offences in Scotland, how punished.*
- s. 14. *Offences committed abroad, where tried.*
- s. 15. *Act from what time to take effect.*

months; or to any of his majesty's dominions in America or the West Indies, until 4 months; or to the Cape of Good Hope, the island of St. Helena, or any part of Africa, until 6 months; or to any of his majesty's dominions in the East Indies, or beyond the Cape of Good Hope, until 12 months after the passing of this act.

P. 458. *l.* 4.—The 20 Hen. 3. c. 2. E. & I. provides, ^{20 Hen. 3. c. 2. s. 2. I.} that widows may bequeath the crop of their ground, as well of their dowers as of other their lands and tenements, *Emblements.* saving to the lords of the fee all such services as be due.

P. 469. *l.* 7.—The 25 Geo. 2. c. 13. Ir. provides (s. 1.) ^{25 Geo. 2. c. 13. Ir.} that where the sum demanded as double the yearly value of any lands, &c. held over and detained contrary to the 11 Ann. c. 2. s. 1. Ir. shall not exceed £20. the landlord or lessor, his heirs, executors, administrators, or assigns, ^{Double value when recovered by civil bill against overholding tenants.} or such person to whom the immediate reversion of such lands, &c. expectant on the determination of such lease, shall belong, may recover the said sum by civil bill, before the justices of assize of the respective counties, or before the justices of the quarter sessions for the county, or county of the city of Dublin, in case the lands, &c. so held over, do lie within either of the two last mentioned counties.

P. 471. *l.* 2.—By the 32 Geo. 3. c. 32. Ir. all mortgages made to or in trust for aliens born out of the allegiance of the king, shall be valid, whether the sovereign of such alien, or the state to which he belongs, be at peace or at war with the king; and such alien may transmit or assign such mortgage to his heirs, &c. or assigns, in like manner as natural born subjects. Provided (s. 2.) that it shall not be lawful for such alien, his heirs, &c. to enter into possession of any such lands, &c. in consequence of any omission on the part of the mortgagor, his heirs, &c. to redeem such mortgage pursuant to the terms thereof, but such mortgage so long as it shall continue to be the property of any such alien, shall be deemed to be only a pledge and security for the debt. But by s. 3. it shall be lawful for every such alien to proceed by bill or petition in any court of equity for the ^{32 Geo. 3. c. 32. Ir.} recovery ^{What interest aliens shall have in mortgages.}

recovery of such debt, as well principal as interest, as natural born subjects may do.

6 Ann. c. 3.
Ir.

*Aid to deraign
warranty.*

P. 479. l. 13.—The 6 Ann. c. 3. Ir. perpetuates the 9 W. 3. c. 12. and further provides, that joint-tenants or tenants in common, and their heirs, after partition made, shall have aid of the other, or of their heirs, to deraign the warranty paramount, and to recover for the rate, as is used between coparceners after partition made by order of the common law.

47 Geo. 3. st. 2.
c. 24. U. K.

*King may grant
lands, &c. es-
cheated, &c. for
what purposes.*

P. 489. l. 36.—The 47 Geo. 3. st. 2. c. 24. U. K. enacts, that where the king hath or shall, in right of his crown or of his duchy of Lancaster, become entitled to any freehold or copyhold manors, lands, &c. either by escheat for want of heirs, or by reason of any forfeiture, or that the same had been purchased by or for the use of or in trust for any alien, it shall be lawful for the king, by warrant under his sign manual, or under the seal of the duchy of Lancaster, (according to the nature of the title) to direct the execution of any trusts or purposes to which the same may have been directed to have been applied, and to make grants of such manors, lands, &c. or any rents or profits then due to the king, to any trustee or otherwise for the execution of any such trusts, &c. or to any person for the purpose of restoring the same to any of the family of the person whose estates the same had been, or of carrying into effect any intended grant, conveyance, or devise of any such person in relation thereto, or of rewarding any person making discovery of any such [*escheat,] or of his majesty's title thereto, as to the king shall seem fit.

* misprinted,
"estreat."

43 Geo. 3. c. 107.
G. B.

*Grants of king
to governors of
queen Anne's
county.*

P. 511. l. 16.—The 43 Geo. 3. c. 107. G. B. which makes an exception in favor of grants to the governors of the bounty of queen Anne, should have been here referred to.

4 Edw. 1. st. 3.
c. 1. & 2. E. & I.

Praying in aid.

P. 518. l. 25.—By the 4 Edw. 1. st. 3. c. 1. E. & I. where a feoffment with a charter thereupon, being made by the king, hath so much in it, that another by a like feoffment, and like deed, should be bound to warranty, the justices may not proceed without the king's commandment. But by c. 2. where the king confirmeth or ratifies

ties any man's deed to the use of another, or hath granted any thing as much as in him lies, or where a deed is shewn whereby the king restored any thing, and [*no] clause contained therein whereby he ought to warrantize, and in like cases, the justices shall not surcease, but the same being shewed to the king, they shall proceed without delay. By the 14 Edw. 3. st. 1. c. 14. E. & I. in case a man demand by petition tenements which be in the king's hands, and be answered in the parliament, chancery, or king's bench, that the king will that a writ be sued to the treasurer and chamberlains of the exchequer, to search charters, miniments, and other remembrances, whereby he may make answer; after that the 4 writs be returned, whether the miniment or remembrance be found for the king, or not, then in the parliament, chancery, or the king's or common bench, they which shall sue for the king, shall be put to answer, and to defend the tenements demanded against the king, so always that every of the 4 writs be delivered to the treasurer and chamberlains 40 days before the return; and by the great or privy seal no point of this statute shall be put in delay.

14 Edw. 3. st. 1.
c. 14. E. & I.

*Delays in case
of praying aid of
the king, avoided*

P. 531. l. 14.—It would have been here also proper to refer to the 10 W. 3. c. 6. s. 7. Ir. which is stated *ante* p. 346.

10 W. 3. c. 6.
s. 7. Ir.
*Alienation of
glebes.*

P. 556. l. 8.—The 29 Geo. 2. c. 16. Ir. may be here also stated, which enacts, that the name of every person who singly, or jointly with any others, shall carry on the business of a banker, shall be mentioned in or subscribed to all notes and receipts to be issued by such banker; and if any banker shall offend herein, he shall forfeit £100. And by s. 2. no person who shall carry on the business of a banker, shall either singly, or in partnership with any other, so long as he shall continue to be a banker, trade or traffick as a merchant in goods or merchandizes imported or exported, upon pain of for-

29 Geo. 2. c. 16.
s. 1. Ir.

*All bankers'
names to be men-
tioned in their
notes.*

s. 2.

*No banker to
trade as a mer-
chant.*

F 2

feiting

* Mr. Ruffhead in his edition of the statutes, and Mr. Williams in his digest, seem to have mistaken the wording and meaning of this act. *Vide* 2 Co. Inst. 270.

s. 4.

*Penalties how recovered.*40 Geo. 3. c. 22
s. 1. Ir.*Bankers who have stopped payment shall, upon vesting their estates in trustees, &c. be free from arrests, &c.**Effect of certificate of conformity.**Certificate of conformity to be verified by oath of banker :*

feiting £1000. By s. 4. all sums of money to be forfeited by this act, may be recovered in any of the Four-courts in Dublin by any person in his own name, by action of debt, &c. founded on this act : provided such suit be commenced within 12 calendar months after the offence : and such sums so recovered shall be applied, one moiety to the use of the person who shall sue for the same, the other to the king. The 40 Geo. 3. c. 22. Ir. further provides, that every banker who has stopped payment since 1 April, 1793, or who shall stop payment, and who shall have vested his whole real and personal estates, or a sufficient part thereof, in one trustee, or more, for the payment of his debts, and for the defraying the expenses of executing that trust, pursuant to the 33 Geo. 2. c. 14. shall be free from all arrests and executions at the suit of any of his creditors, and of and from all the debts contracted and owing by such banker, at the time he stopped payment ; and in case such banker shall be arrested, prosecuted, or impeached, for any debt due before such time as he stopped payment, he shall be discharged upon common bail, and shall and may plead in general that the cause of such suit did accrue before such time as he stopped payment, and may give this act and the special matter in evidence ; and the certificate of such banker's conforming, and the allowance thereof according to this act, shall be sufficient evidence of his having been a banker, and his stopping payment, and a verdict shall thereupon pass for the defendant, unless the plaintiff shall prove that said certificate was obtained unfairly, and by fraud ; provided that such banker shall not be entitled to the benefit of this act, unless the trustees in such deed, or the major part of them, shall, in writing under their hands and seals, certify to the lord chancellor, that such banker hath in all things conformed himself according to the directions of the 33 Geo. 2. c. 14. which certificate shall be laid before the lord chancellor for the confirming the same ; and unless such banker make oath or solemnly affirm, in writing, that such certificate was obtained fairly and without fraud ; and unless two parts in three, in number
and

and value, of the creditors of such banker, (who shall be creditors for not less than £20. and who shall have proved their debts before such trustees, or some other person by them respectively duly authorized,) shall sign such certificate, and testify their consent to such allowance and certificate. And by s. 2. if any banker who

And signed by two thirds of the creditors.

shall have obtained his certificate from such trustees, or the major part of them, and shall have his certificate allowed, &c. as by this act is directed, shall be taken in execution or detained in prison, on account of any debt due before he stopped payment, by reason that judgment was obtained before such certificate was allowed, &c. it shall be lawful for any of the judges of the court wherein judgment shall be so obtained against such banker, on such banker producing his certificate allowed &c. to order any sheriff, or sheriff's bailiff, or officer, gaoler or keeper of any prison, who shall have such banker in his custody by virtue of any such execution, to discharge him out of custody, without payment of any fee; and such sheriff, &c. shall discharge such banker accordingly, and shall be indemnified from any action for any escape. And by s. 3. any such banker having stopped payment, and conformed to the 33 Geo. 2. c. 14. but who shall not have obtained a total discharge from his debts accruing previous to his stopping payment, for want of his certificate, may, after 12 calendar months from the date of every such deed executed as aforesaid by such banker, apply by petition, verified by affidavit, to the lord chancellor, setting forth the true circumstances of the case relative to such stopping of payment and certificate, (having previously given notice to the trustees, or the major part of them, of such his intended application), and the lord chancellor shall have power to direct the trustees, or the major part of them, to certify upon oath the conformity or non-conformity of such banker to said act, and such other matters as shall seem necessary concerning the same; and the lord chancellor shall have power, if he shall think fit, to order an advertisement to be inserted in the Dublin Gazette, for the allowance of such banker's certificate; and if no sufficient

s. 2.

Certificated bankers arrested for debts due before they stopped payment, shall be discharged.

s. 3.

Such bankers as do not get their certificates in 12 months, may petition chancellor, &c.

ficient cause shall be shewn to the contrary within the time limited by the said advertisement, the lord chancellor may allow such certificate as if the same had been signed agreeable to the directions of this act, and make such order for the discharge of such banker from his debts, or otherwise, as shall seem proper; and such certificate, if so allowed, shall be as effectual as if the same had been obtained and allowed agreeable to the directions herein-before mentioned.

33 Hen. 8. st. 2.
c. 4. Ir.

*Patents when
void.*

s. 2.

*Patents what to
contain.*

P. 566. l. 7.—The 33 Hen. 8. st. 2. c. 4. Ir. provides, that if any person having an estate in any title, dignity, annuity, lands, &c. granted or to be granted by the king, do attempt any wilful war or invasion, or transgress in any part of his duty of allegiance which the law declareth to be treason, or do not perform the covenants and pacts comprised within his letters patent, and the same being proved by due order of law, he shall forfeit all his right, interest, and estate in such name, honour, dignity, lands, &c. And by s. 2. in all gifts and grants hereafter to be made by the king of any name, title, estate, or dignity, lands, &c. the words following, or words of the like effect, shall be expressed in said gifts, &c.: “that if the same person unto whom the same gift, &c. shall be made, or any of his heirs or assigns having his estate in the same or any part thereof, do make any confederation with rebels or enemies, or attempt any wilful war, invasion, or destruction, against the king or his subjects, or by any other means do transgress any part of his duty of allegiance which the law declareth to be treason, and be condemned by due order of law, or do not perform such promise, agreement, grant, or pact, as they or any of them shall make with the king or his council, mentioned in said letters patent, then they shall forfeit to the king all their title, interest, or possession by force of such grant.” Saving (s. 3.) all other forfeitures to the king, as before the making of this act.

34 Edw. 3. c. 16.
E. & I.

*Non-claim of
fines no bar.*

38 Geo. 3. c. 71.
s. 1. Eng.

P. 571. l. 11.—The 34 Edw. 3. c. 16. E. & I. which enacted, that the plea of non-claim of fines should be no bar, should have been here referred to.

P. 590. l. 15.—By the 38 Geo. 3. c. 71. Eng. every person who shall make or cause to be made any new model

model, or copy or cast made from such new model, of any bust, or any part of the human figure, or any statue of the human figure, or the head of any animal, or any part of any animal, or the statue of any animal; or shall make, &c. any new model, copy, or cast from such new model, in *alto* or *basso relievo*, or any work in which the representation of any human figure, or of any animal, shall be introduced; or shall make, &c. any new cast from nature of any part of the human figure, or of any part of any animal; shall have the sole right and property in every such new model, &c. for the term of 14 years from the time of first publishing the same: provided that every person who shall make, &c. any such new model, copy, or cast, or any such new model, copy, or cast in *alto* or *basso relievo*, or any work as aforesaid, or any new cast from nature as aforesaid, shall cause his name to be put thereon, with the date of the publication, before the same shall be exposed to sale. And by s. 2. if any person shall, within said 14 years, make or cause to be made any copy or cast of any such new model, &c. either by adding to or diminishing from such new model, &c. or shall cause or procure the same to be done; or shall import any copy or cast of such new model, &c. for sale; or shall sell or otherwise dispose of, or cause or procure to be sold or exposed to sale, or otherwise disposed of, any copy or cast of any such new model, &c.; without the express consent of the proprietor thereof first obtained in writing, signed by him in the presence of and attested by 2 or more witnesses, then every proprietor of any such original model, &c. shall, in a special action upon the case against the person offending, recover such damages as a jury on the trial of such action, or on the execution of a writ of inquiry thereon, shall give or assess, together with full costs of suit. Provided (s.3.) that no person who shall hereafter purchase the right in any such model, &c. of the original proprietor, shall be subject to any action for vending or selling any cast or copy from the same. By s. 4. all actions to be brought as aforesaid, shall be commenced within 6 calendar months after the discovery of every such offence.

*Proprietorship
in busts, &c.
protected.*

s. 2.

s. 3.

Proviso.

s. 4.

*Limitation for
actions.*

23 & 24 Geo. 3.
c. 55. Ir.

*Lawful to lend
money at interest*

P. 605. last line.—To remove doubts concerning the construction of the 5 Geo. 2. c. 7. Ir. the 23 & 24 Geo. 3. c. 55. Ir. declares, that it shall be lawful for every person to lend out money at interest, not exceeding the interest limited by said act.

P. 622. l. 8.—As the “major part of the commissioners” are hereby competent to all acts, I have, in other places, avoided the repetition of these words.

49 Geo. 3. c. 121.
s. 19. E. & I.

*Bankrupts en-
titled to leases,
&c. delivering
up same to as-
signees, not lia-
ble for rent, &c.*

P. 624. l. 22.—The 49 Geo. 3. c. 121. E. & I. enacts, (s. 19.) that in all cases in which a commission of bankrupt shall be sued forth against any person entitled to any lease or agreement for a lease, and the assignees shall accept the same and the benefit therefrom, as part of the bankrupt’s estate and effects, the bankrupt shall not be liable to pay the rent accruing due after such acceptance of the same, nor to be sued in respect of any subsequent non-observance or non-performance of the conditions, covenants, or agreements, therein contained. Provided, that it shall be lawful for the lessor or person agreeing to make such lease, his heirs, executors, administrators, or assigns, if the assignees shall decline, upon their being required so to do, to determine whether they will or not so accept such lease or agreement, to apply by petition to the lord chancellor, praying that they may either so accept the same, or deliver up the lease or agreement, and the possession of the premises demised or intended to be demised, who shall, thereupon, make such order as shall seem just, which shall be binding on all parties.

s. 13.

*Bankrupts in
custody in exe-
cution, to be
brought before
the commission-
ers to be exa-
mined.*

P. 628. l. 4.—The 49 Geo. 3. c. 121. E. & I. provides (s. 13.) that every bankrupt being in custody at the time of his last examination, although charged in execution, shall be brought before the commissioners to be examined by them, in the same manner as is now practised with respect to bankrupts in custody on mesne process; and the gaoler or keeper of the prison in which such bankrupt shall be confined, shall be fully indemnified by the warrant of the commissioners for bringing up such bankrupt for such purpose.

s. 18.

P. 635. l. 9.—By the 49 Geo. 3. c. 121. s. 18. E. & I. the signature and consent of three parts in five, in number:

ber and value of the creditors of the bankrupt, (who shall be creditors for not less than £20. respectively, and who shall have duly proved their debts under the commission, or some other person by them duly authorized thereunto,) to the allowance, and certificate and discharge of the bankrupt, shall be as available for the benefit of the bankrupt, as, before the passing of this act, the signature and consent of four parts in five, &c. would have been; and such signature and consent of three parts in five, &c. shall be sufficient to authorize all acts to be done by the lord chancellor, and the commissioners in such commission of bankrupt, and all others, for the benefit of the bankrupt, which under any prior act of parliament would have been authorized by the signature and consent of four parts in five, &c.

Signature and consent of three fifths in number and value of creditors to certificate, sufficient.

P. 640. l. 15.—The 49 Geo. 3. c. 121. E. & I. provides (s. 2.) that in all cases of commissions of bankrupt, hereafter to be issued, all executions and attachments against the lands and tenements, goods and chattels of the bankrupt, *bona fide*, executed or levied more than 2 calendar months before the date and issuing of such commission, shall be valid, notwithstanding any prior act of bankruptcy committed by such bankrupt; provided the person at whose suit such execution, &c. shall have issued, had not at the time of executing or levying the same, any notice of any prior act of bankruptcy by such bankrupt committed, or that he was insolvent or had stopped payment: Provided that the issuing of a commission of bankrupt, although such commission shall be afterwards superseded, shall be deemed such notice, if it should appear that an act of bankruptcy had been actually committed at the time of issuing such commission.

s. 2.

Executions and attachments 2 months before commission when valid.

Issuing of commission when deemed notice.

P. 642. l. 23.—By the 49 Geo. 3. c. 121. s. 1. E. & I. so much of the 46 Geo. 3. c. 135. U. K. as provides, “that the striking a docket for the purpose of issuing a commission, whether any commission shall issue thereupon, or not, shall be deemed notice of a prior act of bankruptcy for the purposes of said act, if it should appear

s. 1.

So much of 46 Geo. 3. c. 135. as declares the striking of a docket notice of a prior act of bankruptcy, repealed.

pear that an act of bankruptcy had been actually committed at the time of striking such docket," is repealed.

s. 16.

Persons insuring with underwriters who become bankrupts, admitted to prove loss of those interested.

P. 643. l. 29.—By the 49 Geo. 3. c. 121. s. 16. E. & I. every person who hath effected or shall effect any policy of insurance upon ships, goods, wares, merchandize, or other effects, with any person as a subscriber or underwriter, who is or shall become bankrupt, shall be admitted to prove any loss to which such bankrupt is or shall be liable in respect of his subscription to such policy, notwithstanding the person effecting such policy is not the person beneficially interested in such ships, &c. provided the person really interested is not in that part of the united kingdom in which the commission of bankrupt shall have issued in the proceedings under which such loss is to be proved. And by s. 17. it shall be competent to any annuity creditor of any person against whom a commission of bankrupt shall issue, whether the same shall be secured by bond or covenant, or bond and covenant, or by whatever assurance the same shall be secured, and whether there shall or shall not be or have been any arrears of such annuity at or before the time of the bankruptcy, to prove under such commission as a creditor for the value of such annuity, which value the commissioners shall ascertain; and the certificate of every bankrupt under whose commission such proof shall be or might have been made, shall be a discharge of such bankrupt against all demands in respect of such annuity, and the arrears and future payments thereof, in the same manner as such certificate would discharge the bankrupt with respect to any other debt proved or which might have been proved under such commission.

s. 17.

Annuity creditors admitted to prove the value under any commission.

P. 644. l. 21.—By the 49 Geo. 3. c. 121. s. 8. E. & I. in all cases of commissions of bankrupt already issued under which no dividend has yet been made, or under which the creditors who have not proved, can receive a dividend equally in proportion to their respective debts, without disturbing any dividend already made; and in all cases of commissions of bankrupt hereafter to be issued, where at the time of issuing the commission any person shall be surety for or be liable for any debt of the bankrupt

s. 8.

Sureties, &c. for bankrupts when permitted to prove under commission.

bankrupt, it shall be lawful for such surety or person liable, if he shall have paid the debt, or any part thereof in discharge of the whole debt, although he may have paid the same after the commission shall have issued, and the creditor shall have proved his debt under the commission, to stand in the place of the creditor as to the dividends upon such proof; and when the creditor shall not have proved under the commission, it shall be lawful for such surety, or person liable, to prove his demand in respect of such payment, as a debt under the commission, not disturbing the former dividends, and to receive a dividend or dividends proportionably with the other creditors taking the benefit of such commission, notwithstanding such person may have become surety or liable for the debt of the bankrupt after an act of bankruptcy committed by such bankrupt, provided that such person had not at the time when he became such surety, or when he so became liable for the debt of such bankrupt, notice of any act of bankruptcy by such bankrupt committed, or that he was insolvent, or had stopped payment; provided always, that the issuing a commission of bankrupt, although such commission shall afterwards be superseded, shall be deemed such notice; and every person against whom any such commission of bankrupt has been or shall be awarded, and who has obtained or shall obtain his certificate, shall be discharged of all demands at the suit of every such person having so paid, or being hereby enabled to prove as aforesaid, or to stand in the place of such creditor as aforesaid, with regard to his debt in respect of such suretyship or liability, in like manner as if such person had been a creditor before the bankruptcy for the whole of the debt, in respect of which he was surety or was so liable as aforesaid. And by s. 9. every person who hath given or shall give credit to any person who is or shall become bankrupt, upon good and valuable consideration, *bona fide*, for any money which is or shall not be due or payable at or before the time of such person's becoming bankrupt, shall be admitted to prove such debt as if the same were payable presently, or not at a future day,

s. 9.]

*Debts payable
in futuro here
proved.*

s. 14.

*Persons proving
debts under com-
mission not to
proceed by ac-
tion.*

day, and shall receive proportional dividends of such bankrupt's estate equally with the other creditors of such bankrupt, deducting only thereout a rebate of interest for what they shall so receive, at the rate of £5. *per cent. per annum*, under commissions which have issued or shall issue in England, and at the rate of £6. *per cent. per annum* under commissions which have issued or shall issue in Ireland, to be computed from the actual payment thereof to the time such debts would become payable according to the terms upon which the same were contracted. By s. 14. it shall not be lawful for any creditor who has or shall have brought any action, or instituted any suit against any bankrupt, in respect of any demand which arose prior to the bankruptcy of such bankrupt, or which might have been proved as a debt under the commission issued against such bankrupt, to prove a debt under such commission for any purpose, or to have the claim of a debt entered upon the proceedings under such commission, without relinquishing such action, &c. and all benefit from the same; and the proving or so claiming a debt under a commission of bankrupt, shall be deemed an election by such creditor to take the benefit of such commission with respect to the debt so proved or claimed by him: Provided that such creditor shall not be liable to the payment to the bankrupt, or his assignees, of the costs of such action, &c. which shall be so relinquished by him: And provided also, that where any such creditor shall have brought any action, &c. against such bankrupt jointly with any other person, his relinquishing such action, &c. against such bankrupt, shall not affect such action, &c. against such other person.

s. 5.

*No dividend de-
clared till as-
signees shall ac-
count on oath.*

P. 647. l. 11.—The 49 Geo. 3. c. 121. E. & I. provides (s. 5.) that the commissioners shall in no case declare a dividend upon admission only of a certain sum in the hands of the assignees, but shall require such assignees to deliver upon oath a true statement in writing of all sums of money received by such assignees, and when received by them respectively, and on what accounts, and how employed, and shall examine such statement and compare the receipts with the payments, and ascertain

ascertain what balances have been from time to time in the hands of such assignees respectively, and shall inquire for what reason any sum appearing to be in the hands of such assignees ought to be retained, and thereupon shall declare a dividend on the remaining sum, specifying in their order the sum so allowed to be retained, and the grounds on which they may conceive it proper that it should be retained.

P. 647. l. 36.—By the 49 Geo. 3. c. 121. s. 12. E. & I. no action shall be brought by any creditor who hath proved or shall prove any debt under any commission of bankrupt, against the assignees, for the amount of any dividend declared by the commissioners; but in all cases in which the assignees shall refuse or omit to pay any dividend, it shall be lawful for the creditor entitled to the same, to petition the lord chancellor for payment thereof; and it shall be lawful for the lord chancellor, on hearing such petition, not only to order the payment of such dividend, but also, where justice shall require it, to order payment of interest for the time that such dividend shall have been withheld, and of the costs of such application.

s. 12.

Remedy against assignees for dividend to be by petition.

P. 648. l. 25.—The 49 Geo. 3. c. 121. s. 3. E. & I. recites the 5 Geo. 2. c. 30. s. 32. Eng. and enacts, that if the major part of the creditors of any bankrupt shall not, before they shall proceed to the choice of assignees, direct in what manner, how, and with whom, and where, the monies arising from the bankrupt's estate shall be paid in and remain, in pursuance of the power given by the said recited act, the commissioners shall, after they have proceeded to the choice of assignees, and at the same meeting, direct in what manner, how, and with whom, and where the monies arising out of the bankrupt's estate shall be paid in and remain, until the same shall be divided amongst the creditors as by said recited act is directed; to which direction the assignees shall conform as often as £100. shall be received from such bankrupt's estate, and shall be indemnified for what they shall do in pursuance of such direction: Provided that it shall not be lawful for the commissioners to direct such monies

s. 3.

If creditors do not direct how the bankrupt's fund shall be disposed of, the commissioners may.

Proviso.

s. 4.

Assignees disobeying such directions to be charged £20. per cent. on money retained.

monies to be paid into the hands of said commissioners, or any of them, or of the solicitor to the commissioners, or into any banking house or other house of trade or business in which the commissioners, or any of them, or the solicitor of the commission, are or is interested or concerned as a partner or otherwise. And by s. 4. in all cases in which any assignee of any bankrupt's estate, shall wilfully retain in his hands, or otherwise employ for his own benefit, any sum of money part of the estate of such bankrupt, contrary to the aforesaid direction of the 5 Geo. 2. c. 30. Eng. or of the said direction in this act, he shall be charged in his accounts with the estate of such bankrupt, with such sum as shall be equal to the amount of interest computed at the rate of *£20. per cent per annum* on all such sums so retained or employed by him, for the time during which he shall have so retained, &c. the same; and the commissioners shall charge such assignee accordingly. And this act provides (s. 6.) that

s. 6.

If assignees become bankrupts having £100. of bankrupts estate wilfully retained, their certificate shall not discharge their future effects.

in case any commission of bankrupt shall issue against any person who is or shall be an assignee of the estate and effects of any bankrupt, and who shall, at the time of such commission against him, be indebted to the estate of the bankrupt of whose estate, &c. he was assignee, to the amount of £100. in respect of money come to his hands as such assignee, and wilfully retained or employed by him for his own benefit, the certificate of conformity which may be obtained by such assignee so becoming bankrupt, shall only have the effect of freeing the person of such bankrupt from arrest and imprisonment, but the future estate and effects of every such person shall remain liable for so much of his debt to the estate of the bankrupt of whose estate, &c. he was an assignee, as shall not be paid by dividends under said commission, together with lawful interest for the whole debt, in like manner as if he had not obtained his certificate; the tools of trade, necessary household goods, and furniture, and necessary wearing apparel of such bankrupt, and his wife and children, only excepted. By s. 7. it shall be lawful for the commissioners, upon the application of the assignees, or of any 5 or more credi-

s. 7.

tors

tors who have proved their debts under the commission, on notice given to the assignees of such intended application, as often as it shall appear to the commissioners expedient that the money paid in to any person as aforesaid for the purpose of being divided amongst the creditors, or any money retained to answer any claim which may have been duly entered upon the proceedings under said bankruptcy, or any dividends ordered to be retained by the assignees, should be laid out at interest, to order that the whole or any part of such money shall be invested in the purchase of exchequer bills for the benefit of such creditors and claimants, and to direct where and with whom such exchequer bills shall be kept for safe custody, and to cause the exchequer bills to be sold when it shall appear to them necessary, and to direct the proceeds thereof to be again laid out in the purchase of exchequer bills, or to be applied for the benefit of the creditors and claimants, according to their several interests, as to said commissioners shall seem meet, subject nevertheless to the control of the lord chancellor.

*Commissioners
may invest bankrupt's money in
exchequer bills.*

P. 653. l. 29.—The 49 Geo. 3. c. 121. E. & I. provides (s. 10.) that in any action brought or to be brought by or against any assignee of any bankrupt, the commission of bankrupt, and the proceedings of the commissioners under the same, shall be evidence to be received of the petitioning creditor's debt, and of the trading and bankruptcy of such bankrupt, unless the party in such action shall, if defendant, at or before the time of his pleading to such action, and, if plaintiff, before issue joined in such action, give notice in writing to such assignee, that he intends to dispute such matters, or any of them; and where such notice shall have been given, if such assignee shall at the trial prove the matter so disputed, or the other party admit the same, the judge shall, if he see fit, grant a certificate that such proof and admission was made upon such trial, and such assignee shall be entitled to the costs (to be taxed by the proper officer) occasioned by such notice; and such costs shall, in case the assignee obtain a verdict, be added to his costs, and if the other party obtain a verdict shall be set off or deducted from the costs which such other

s. 10.

Evidence of petitioning creditor's debt, trading, and bankruptcy, in actions by or against assignees.

s. 11.

Similar provision as to suits in equity.

other party would otherwise be entitled to receive from such assignee. And by s. 11. in all suits in equity by or against any assignee of any bankrupt, the commission of bankrupt, and the proceedings of the commissioners under the same, shall be evidence to be received of the petitioning creditor's debt, and of the trading and bankruptcy of such bankrupt, as against all the other parties in such suit, unless such parties, some or one of them, shall, within 10 days after rejoinder in the cause, give notice in writing to the assignee, that they or he intend to dispute the said trading, petitioning creditor's debt, or act of bankruptcy, or some or one of such matters; and where such notice shall have been given, if the assignee shall prove the matter so disputed to the satisfaction of the court, the costs occasioned by such notice, (to be taxed by the proper officer,) shall, if the court shall see fit, be paid by the party giving such notice to the assignee; and the service of such notice may be proved by affidavit upon the hearing of the cause.*

VOLUME II.

3 Edw. 1. c. 16.
E. & I.

Distress not to be driven out of the fee.

P. 3. l. 11.—THE 3 Edw. 1. c. 16. E. & I. not only confirms the 52 Hen. 3. c. 4. by providing that none shall cause any distress to be driven out of the county, upon pain of making a grievous fine; but also that none shall distrain out of their fee upon the like pain, and to be grievously punished if the trespass requires it.

49 Geo. 3. c. 28.
E.

Clerk of the coroner and attorney of the king's bench, admissible as attornies.

P. 18. l. 29.—The 49 Geo. 3. c. 28. E. recites the 2 Geo. 2. c. 23. s. 26. Eng. and enacts, that the clerks of the coroner and attorney of the king's bench, who have been regularly admitted, or who may be regularly admitted as such clerks, may be approved, sworn, and admitted to practise, and may practise as attornies in said court,

* By s. 15. this act is declared not to extend to Scotland.

court, or in any other court of record in said recited act mentioned, in the name, and with the consent of some sworn attorney of such court, (such consent to be in writing, and signed by such attorney as aforesaid,) in like manner as the attornies of such court, or the attornies or clerks of the offices of the king's remembrancer, treasurer's remembrancer, pipe or office of pleas in the exchequer at Westminster, are by said act empowered to do.

P. 33. l. 22.—By the 38 Geo. 3. c. 39. Ir. no proctor ^{38 Geo.3. c.39. Ir.} of the court of prerogative, court of admiralty, court of delegates, or of any ecclesiastical court, shall commence ^{Proctors' costs to be furnished before actions.} or maintain any action or suit for the recovery of any fees, charges, or disbursements, which shall be due to him in any proceedings in any of said courts, until the expiration of a month after such proctor shall have delivered to the party to be charged therewith, or left for him at his dwelling-house, or last place of abode, a bill of such fees, &c. written in a common legible hand, and in the English tongue, except law terms, or names of such proceedings as are usually expressed in other languages, and in words at length, (except times and sums,) which bill shall be subscribed with the proper hand of such proctor; and upon application of the party chargeable by such bill, or of any other person authorized, unto the judge or judges of the court in which the business contained in such bill, or the greatest part thereof in amount or value, shall have been transacted, for the taxation of such bill, and upon submission of the party, or other person authorized as aforesaid, to pay the whole ^{How taxed.} sum that upon the taxation of such bill shall appear to be due, or upon application of the proctor, after the delivery of such bill as aforesaid, to such judge, &c. for the taxation of such bill, such judge, &c. shall refer said bill, and the said proctor's demands thereon, (although no suit shall be then depending touching the same,) to be taxed by the register of said court, or his deputy, without any money being brought into court for the purpose; and such judge, &c. shall review and alter, as he shall think fit, the taxation of the said register, or of his

*Evidence in ac-
tions for proc-
tors' costs.*

*Costs of taxa-
tion.*

deputy, and certify the same; and if the said proctor, or the party chargeable by such bill, having due notice, shall refuse or neglect to attend such taxation, the said register, or his deputy, may proceed to tax the said bill *ex parte*, pending which reference and taxation, no action shall be commenced or prosecuted touching the said demand; and upon the taxation of such bill, the said party shall forthwith pay to the said proctor, or any person by him authorized to receive the same, the whole sum that shall be found to be or remain due; which payment shall be a full discharge of the said bill and demand; and in default thereof, the party shall be liable to an action at the suit of said proctor, to be brought in any of his majesty's courts of law in this kingdom, for such sum as shall be ascertained by such taxation to be due; and upon the trial of such action it shall be sufficient for such proctor to prove the service of such bill in manner herein-before mentioned, and such proof, together with proof of the name and hand-writing of the register, or of his deputy, who shall tax such costs, and of the judge or judges of said court, to said bill, shall be sufficient evidence of the taxation thereof; and if upon such taxation it shall be found that such proctor hath been overpaid by any sum paid to him during the course of such proceedings, on account of the same, then such proctor shall forthwith refund unto the party entitled thereto, or to any person by him authorized to receive the same, all such money as the said register and judge, &c. shall certify upon said bill to have been overpaid; and proof of the name and hand-writing of the register, or his deputy, and judge, &c. subscribed to such bill, shall be sufficient evidence of said overpayment; and the judges of said respective courts are hereby authorized to award the costs of such taxation: that is to say, if the bill taxed be less by a sixth than the bill delivered, then the proctor is to pay the costs of said taxation; but if it shall not be less, the court shall charge the proctor or client with such costs, according to the nature of the case.

P. 35. l. 26.—By the 52 Hen. 3. c. 9. E. & I. none ^{52 Hen.3. c. 9.}
 that is infeoffed by deed, shall be distrained to do suit ^{E. & I.}
 to the court of his lord, without he be specially bound ^{Suit of court.}
 thereto by his deed, those only excepted whose ancestors
 were used to do such suit before the first voyage of said
 king into Britain: likewise none that is infeoffed with-
 out deed from the time of the conquest, or any other
 ancient feoffment, shall be distrained to such suits, un-
 less his ancestors used to do it before the said voyage:
 and they that are infeoffed by deed to do a certain ser-
 vice, as for service of so many shillings a year, to be ac-
 quitted of all service, shall not be bound to such suits
 contrary to the form of their feoffment. And if any in-
 heritance whereof but one suit is due, descend unto many
 heirs, whoso hath the eldest part shall do suit for him-
 self and his fellows, and the other coheirs shall be con-
 tributary; and if many feoffees be seised of an inherit-
 ance whereof but one suit is due, the lord shall have but
 that one suit; and if those feoffees have no warrant or
 mesne which ought to acquit them, then all the feoffees,
 according to their portion, shall be contributaries for do-
 ing the suit. And if the lords distrain the tenants for
 such suits contrary to this act, at the complaint of the
 tenants, the lords shall be attached to appear in the
 king's court at a short day to make answer thereto, and
 shall have but one essoin therein, if they be within the
 realm; and the distresses shall be delivered to the plain-
 tiff until the plea be determined: and if the lords which
 took the distress come not at the day, the sheriff shall
 be commanded to cause them to come at another day;
 at which day if they come not, he shall be commanded
 to distrain them by all their goods, so that the sheriff
 shall answer to the king of the issues of the inheritance,
 and that he have their bodies before the justices at a cer-
 tain day; so that if they come not at that day, the plaintiff
 shall go without day, and his distresses shall remain de-
 livered until the lords have recovered the suit by award
 of the king's court; and in the mean time such distresses
 shall cease, saving to the lords their right to recover
 those suits when they will sue: and when the lords of

the courts come in to answer the plaintiffs of such trespasses, and be convicted thereupon, then by award of the king's court the plaintiffs shall recover damages. And by s. 2. if the tenants withdraw such suits as they were wont to do, then by like speediness of justice the lords of the courts shall obtain justice to recover their suits, with their damages; and this must be understood of withdrawing from themselves, and not of withdrawing from their ancestors. Nevertheless the lords of courts shall not recover seisin of such suits against their tenants by default, as they were wont to do. And touching suits withdrawn before the time afore-mentioned, let the common law run.

2 Edw. 3. c. 11.
E. & I.

Court of common bench
moveable upon
warning.

P. 37. l. 28.—The 2 Edw. 3. c. 11. E. & I. provides, that before the common bench be removed, the justices shall be warned by a time, so that they may adjourn the parties by such time that they shall not lose their process.

31 Edw. 3. st. 4.
c. 1. Eng.

Common pleas
not pleadable in
exchequer.

P. 38. l. 15.—It was one of the provisions of the *ordin. pro stat. Hibern.* 31 Edw. 3. st. 4. c. 1. Eng. that common pleas of debts, trespasses, and other things, which ought to be pleaded at the common law, should not be pleaded in the exchequer at Dublin; and that if the chancellor of the exchequer should seal such writs at the common law, he should answer to the king for the contempt, and to the party for the grievance.

28 Edw. 1. st. 3.
c. 6. E. & I.

Writs how
sealed.

17 Edw. 1. c. 7.
Eng.

P. 38. l. 26.—The 28 Edw. 1. st. 3. c. 6. E. & I. enacts, that no writ that toucheth the common law, shall go forth under any of the petty seals. And it was provided by the *ordin. pro stat. Hibern.* 17 Edw. 1. c. 7. Eng. that no writ original pleadable at common law, should be received but under the great seal of Ireland; nor any process made by either writ, save by the seal of the exchequer of Ireland of things touching that court.

28 Hen. 6. c. 4.
Ir.

Writs of privilege.

P. 38. l. 26.—The 28 Hen. 6. c. 4. Ir. enacts, that the chancellor, justices, and barons, shall not put forth from their places any writs of privilege, (directed to officers of liberties commanding them to surcease from their pleas,) but only for the ministers, servants, or yeomen continually

continually abiding with them; and he that pursueth such writ of privilege shall pay to the king 100s. and to the party grieved 100s. by bill or writ grounded upon this ordinance, so that he be not minister, &c. as aforesaid.

P. 43. l. 14.—The 9 Hen. 3. c. 12. E. & I. should have been here referred to, which provided that the assizes of *novel disseisin* and *mort d'ancestor* should not be taken but in the shires, and after this manner: the king, or (in his absence out of the realm) the chief justices, shall once a year send the justices through every county, who, with the knights of the shires, shall take the said assizes in those counties; and such things as cannot be there determined shall be ended elsewhere in their circuits; and those things, which for difficulty of some articles, cannot be determined by them, shall be referred to the justices of the bench, and shall be there determined. And by c. 13. assizes of *darrein presentment* shall be always taken before the justices of the bench, and there determined.

9 Hen.3. c. 12.
E. & I.

Assizes how
taken by the jus-
tices.

c. 13.

Assizes of dar-
rein present-
ment.

P. 48. l. 27.—The 49 Geo. 3. c. 91. E. recites the 8 Ric. 2. c. 2. E. & I. and 33 Hen. 8. c. 24. Eng. and enacts, that (notwithstanding said acts) the chief justice and justices of either bench, and the chief baron and barons of the exchequer, and any other person who shall be appointed justice of assize in any county in England, may exercise the office of justice of assize, and act under any commission of *nisi prius* in such county, though born or inhabiting within such county.

49 Geo.3. c.91.
E.

Justices of as-
size may act in
counties where
born or inhabit-
ing.

P. 51. l. 12.—The 20 Edw. 3. c. 1. E. & I. should be here referred to as confirming the 18 Edw. 3. st. 4. and prescribing the duty of the judges nearly in the words of the oath contained in this latter statute. And the 20 Edw. 3. c. 2. E. & I. ordains in like manner with respect to the barons of the exchequer, that they shall do right and justice to all the king's subjects, great and small; and that they shall deliver the people reasonably and without undue delay.

20 Edw. 3. c.1.
E. & I.

Duty of justices

c. 2.

Duty of barons.

P. 64. l. 5.—The 49 Geo. 3. c. 101. s. 5. I. amends the 36 Geo. 3. c. 25. Ir. by providing that it shall be lawful

49 Geo.3.c.101.
s. 5. I.

lawful

*New division of
counties in re-
spect to civil bill
jurisdiction, &c.*

lawful for the lord lieutenant, with the advice of the privy council, to divide such of the counties of Ireland as they shall think expedient, into two divisions, to consist of a certain number of baronies, half baronies, and parishes, instead of baronies or half baronies only; and every such division shall be distinguished by the name of some one barony or half barony of which it shall be composed.

27 Geo. 3. c. 22.
s. 1. Ir.

*Evidence of ju-
risdiction of
manor courts.*

s. 2.

*Attested copy
of charter, &c.
lodged with clerk
of peace.*

s. 3.

*Duty of senes-
chal, &c. and
clerk of the peace
enforced.*

s. 4.

*Proceeding upon
appeals from
manor courts.*

P 72. last line.—The 27 Geo. 3. c. 22. Ir. provides, that on all appeals from the decrees of manor courts before the judges of assize, whenever any question shall arise respecting the existence or extent of jurisdiction of any manor court, a copy or abstract of such clauses of such letters patent, or charter creating such manors, as contain the grants of jurisdiction in actions between parties in the courts in said manors, from the enrolment thereof in the rolls-office or auditor general's office, attested by the officer thereof, and lodged and deposited with the acting clerk of the peace for the county wherein such manors are holden, shall be received as evidence of the jurisdiction of said manor courts. And by s. 2. every seneschal or steward of a manor created by charter or patent, who shall hold jurisdiction of any cause, shall lodge with the clerk of the peace of the county in which such court is holden, such attested copy of such charter, &c. or of such clauses as aforesaid, paying to the clerk of the peace for the custody thereof, 5s.; which copy or certificate so attested and lodged as aforesaid, shall, without fee, be produced by such clerk of the peace before any judge of assize, when lawfully demanded. And by s. 3. if any seneschal or steward of a manor who shall hold plea in any action, shall neglect to cause such attested copy of such charter, &c. or clauses thereof as aforesaid, to be lodged with the acting clerk of the peace as aforesaid, before 1st of August 1787, he shall forfeit £10. to be recovered by civil bill; and any clerk of the peace who shall neglect producing the same when called upon, shall forfeit the like sum, to be recovered in like manner by the party aggrieved. By s. 4. in all cases of appeal from the decree of any manor court to the judges of assize, the respondent shall, if required, produce

produce upon the hearing of such appeal, the decree of the manor court so appealed from, and also the summons of the manor court served upon the party upon which such decree was founded.

P. 93. l. 35.—The 9 Edw. 2. st. 1. c. 6. E. & I. enacts, that when any case is debated before judges spiritual and temporal, (as in the case of laying violent hands on a clerk,) notwithstanding the spiritual judgment the king's court may discuss the same matter.

9 Edw. 2. st. 1. c. 6. E. & I.

Spiritual and temporal courts concurrent.

P. 96. l. 22.—After the word “gaol” should be added, “or to remove any recognizance,” these words being contained in this clause of the 1 & 2 Ph. & M. c. 13. s. 7. Eng. and 10 Car. 1. st. 2. c. 18. s. 2. Ir.

1 & 2 Ph. & M. c. 13. s. 7 Eng.

10 Car. 1. st. 2. c. 18. s. 2. Ir.

Recognizances removed.

P. 98. l. 19.—The 8 & 9. W. 3. c. 27. Eng. provides (s. 13.) that it shall be lawful for any person who shall have cause of action against any prisoner of the fleet, after filing or entering a declaration, to deliver a copy to such defendant in any personal action, or to the turnkey or porter of the fleet prison, and after rule given to plead, (to be out at 8 days at most after delivery of such copy of declaration,) and affidavit made of such delivery, to sign judgment against such defendant, as if he had been charged at the bar of the common pleas or exchequer.

8 & 9 W. 3. c. 27. s. 13. Eng.

Delivery of declaration against prisoner to turnkey, &c.

P. 112. l. 18.—The 9 Geo. 2. c. 5. Ir. should have been here referred to, which (prior to the 25 Geo. 2. c. 13. Ir.) enacted, that where any distress shall be taken by any landlord or lessor for any arrears of rent due upon any lease for lives or years, or upon any contract or writing purporting a demise of any lands, &c. whereon any rent has been paid by the tenant who shall be in the possession of the land at the time of such distress taken, or by any person under which such tenant claims, where the title to the land is not in question, and a replevin is issued for such distress, it shall be lawful for any avowant in his avowry to set forth only, that he was seised or possessed, without setting forth the commencement of his estate, or deducing a title from the person under whom he derives his interest, or that such person was seised

9 Geo. 2. c. 5. Ir.

General avowry for rent.

seised in fee of such lands, &c.; and the want thereof shall not be any cause of demurrer to such avowry.

19 Car. 2. c. 5.
Eng.

Provisions of
17 Car. 2. c. 7.
extended to
Wales and
counties pala-
tine.

6 Ann. c. 31.
s. 6. Eng.

2 Geo. 1. c. 5.
s. 2. Ir.

P. 113. l. 27.—The 19 Car. 2. c. 5. Eng. extends the provisions of the 17 Car. 2. c. 7. Eng. to the court of common pleas for Lancaster, the court of great sessions of Wales, the court of great sessions or assizes for Chester, and the court of common pleas for Durham.

P. 120. l. 10 to 13.—It should have been here observed, that the 10 Ann. c. 14. Eng. recites, *verbatim*, the 6 Ann. c. 31. s. 6. Eng. and perpetuates this clause, but does not recite or perpetuate the 7th section of this act. And the proviso contained in the 2 Geo. 1. c. 5. s. 2. Ir. is not precisely similar to the 7th section of the 6 Ann. c. 31. Eng. the words of the 2 Geo. 1. c. 5. s. 2. being, “that nothing herein shall extend to any action, covenant, or agreement, between landlord and tenant.”

2 Edw. 3. c. 17.
E. & I.

Writ of deceit.

P. 121. last line.—With respect to the ancient writ of deceit; the 2 Edw. 3. c. 17. E. & I. enacts, that this writ shall be maintainable, as well in the case of garnishment touching plea of land, where such garnishment is given, as in case of summons in plea of land.

20 Edw. 1. st. 3.
E. & I.

*Stranger by col-
lateral title re-
ceived.*

P. 126. l. 15.—The 20 Edw. 1. st. 3. E. & I. enacts, that if any before judgment, in such case as is provided for by the 13 Edw. 1. st. 1. c. 3. come in and desire to be received, he shall find surety to satisfy the demandant of the value of issues of the lands, from the day that he is received until final judgment be given upon the petition of the demandant; and if the demandant recover, the defendant shall be grievously amerced, if he have whereof; and if he have not, he shall be imprisoned at the king's pleasure; and if he can prove his right, he

13 Ric. 2. st. 1.
c. 17. E. & I.

*Reversioner re-
ceived in suit
against tenant.*

shall go quit. And the 13 Ric. 2. st. 1. c. 17. E. & I. further provides, that if any tenant for life, in dower, by the law of England, or in tail after possibility of issue extinct, be impleaded, and he in the reversion cometh and prayeth to be received at the day that the pleadeth to the action, or before, he shall be received to plead in chief, without taking delay by voucher, aid-prayer, nonage, or other delay, so that after such receipt he shall have no delay by protection,

essoyn

essoins of the king's service, common essoin, or any other delay; and days of grace shall be given by discretion of the judges, without giving the common day in plea of land. Provided (s. 2.) they in reversion which pray to be received as aforesaid, shall find surety of the issues of the tenements demanded, for the time that the demandants be delayed after the plea determined between the demandants and tenants, if the judgment pass for the demandant, as well where the receipt is counterpleaded, as where it is granted.

P. 126. l. 22.—By the 6 Edw. 1. c. 6. E. & I. if a man die having many heirs, of whom one is son or daughter, brother or sister, nephew or niece, and the other be of a further degree, all the heirs shall recover by a writ of *mort d'ancestor*. 6 Edw. 1. c. 6. E. & I. Writ of mort d'ancestor.

P. 127. l. 39.—By the 1 Hen. 4. c. 8. E. & I. in case lands be granted by the king's patent without title found, where the king's entry is not given by law, the disseisees shall have a special assize of the chancellor's grant, without other suit to the king: and if the patentees pray in aid, a *procedendo* shall be granted: and if the disseisees recover, they shall have treble damages. 1 Hen. 4. c. 8. E. & I. Assize by disseisees against king's patentee.

By the 9 Hen. 4. c. 5. E. & I. in assizes and writs before justices at common law, in which mayors, bailiffs, and commonalties, or lords or bailiffs of ancient demesne, benamed, to exclude them of their jurisdiction, such justices shall first inquire by the assize in the country, whether the said mayors, &c. (if they require it) be disseisors or tenants in such case, or be named by collusion: And if it be found that they be not disseisors nor tenants, but be named by collusion, the justices shall cause the said assizes, or other writs, to be abated, and the plaintiffs shall be grievously amerced. 9 Hen. 4. c. 5. E. & I. Lords, mayors, &c. named disseisors by collusion.

And by the 8 Hen. 6. c. 26. E. & I. in assizes and actions personal, sued before the king in his bench, or any of the king's justices, of lands or of any thing rising within any franchises or ancient demesne, whereof the conusance ought to pertain to any lords, mayors, bailiffs, citizens, or burgesses or commonalty; if any defendants in such assize or other actions make default, to exclude 8 Hen. 6. c. 26. E. & I. Penalty for defendant making default to put lords, &c. from their jurisdiction.

the aforesaid lords, &c. of their conusance, the justices, at the request of the said lords, &c. shall make inquiry by the assize, where such exceptions are alleged in assizes, and in actions personal, by inquest to be taken before the justices, whether such defaults be made as aforesaid, or not; in which assize and inquest, as well the plaintiffs as the lords, &c. may have their challenges. And if it be found by such assizes or inquests, that such defaults be made by collusion, to exclude the lords, &c. of their conusances or jurisdiction, the said writs shall be abated, and the plaintiffs shall be in the king's mercy.

6 Edw. 1. E. & I.

Damages in writs of entry, mort d'ancestor, &c.

P. 129. l. 19.—By the *expos. stat. Glouc.* 6 Edw. 1. E. & I. (the authority of which, as a statute, is doubted) the time from which the damages were to be computed, in the writs of entry *sur disseisin*, and writs of *mort d'ancestor*, &c. to be brought in pursuance of the 6 Edw. 1. c. 1. E. & I. was regulated with reference to the time of the publication of that statute.

20 Hen. 3. c. 1. E. & I.

Penalty for deforcement of dower.

P. 133. l. 27.—With respect to deforcement of dower, it is enacted by the 20 Hen. 3. c. 1. E. & I. that where widows be deforced of their dower or quarantine of lands whereof their husbands died seised, and recover by plea; they that be convict of such deforcement shall yield as damages the value of the whole dower, to the day that the widows by judgment shall have recovered seisin, and shall be amerced at the king's pleasure. By

3 Edw. 1. c. 49. E. & I.

Pleading in abatement of writ of dower, taken away.

the 3 Edw. 1. c. 49. E. & I. a writ of dower *unde nihil habet* shall not abate by exception of the tenant, "that she hath received her dower of another," unless he shew that she hath received part of her dower of himself in the same town.

13 Edw. 1. st. 1. c. 9. E. & I.

Proceeding upon writ of mesne.

P. 159. l. 12.—By the 13 Edw. 1. st. 1. c. 9. E. & I. so soon as the tenant in demesne (having a mesne between him and the chief lord) is distrained, the tenant shall purchase his writ of mesne; and if the mesne having land in the same county, absent himself until the great distress, the plaintiff shall have such day in his writ of great distress, before the coming whereof two counties may be holden, and the sheriff in two full counties shall cause to be proclaimed, that the mesne do come at the day

day contained in the writ, to answer his tenant; and if he do not come he shall lose the services of his tenant, and from thenceforth the tenant shall answer unto the chief lord for such services and customs as the mesne used to do: neither shall the chief lord distrain so long as the tenant doth offer him the services and customs due; and if the chief lord exact more than the mesne ought to do, the tenant shall have against him all such exceptions as the mesne should: and if the mesne have nothing, the tenant shall nevertheless purchase his writ of mesne to the sheriff, and if the sheriff return that he hath nothing, &c. then shall the tenant sue his attachment, and if the sheriff return that he hath nothing to be attached by, he shall sue his writ of great distress, and proclamation shall be made; and if the mesne have no land in the shire where the distress is taken, but hath land in some other shire, a writ original shall issue to summon the mesne unto the sheriff of the shire in which it shall be testified that he hath land, and suit shall be made until the great distress and proclamation as aforesaid; and nevertheless suit shall be made in the same shire where he hath nothing, until the process come to the great distress and proclamation, and after proclamation made in both counties, the mesne shall be forejudged of his fee and service. And where the tenant in demesne is infeoffed to hold by less service than the mesne ought to do, when, after proclamation, the tenant hath attorned to the chief lord, and the mesne being excluded, the tenant must answer to the chief lord for all such services and customs as the mesne was wont to do. And after that the mesne is come into court, and hath confessed that he ought to acquit his tenant, or be compelled by judgment to acquit, if after confession or judgment, it be complained that the mesne doth not acquit his tenant, then shall issue a writ judicial, that the sheriff shall distrain the mesne to acquit the tenant, and to be at a certain day before the justices, to shew why he hath not acquitted him; and when they have proceeded unto the great distress, the plaintiff shall be heard: and if the plaintiff can prove that he hath not acquitted him, he shall yield damages, and by award of the court the tenant

nant shall go quit from the mesne, and shall attorn unto the chief lord: and if he come not at the first distress, a writ shall go to distrain him again, and proclamation shall be made, and as soon as it is returned, they shall proceed to judgment: but tenants are not hereby excluded, but they shall have a warranty of the mesnes and their heirs, if they be impleaded for their tenements, as heretofore accustomed; and the tenants may also sue against their mesnes as heretofore, if they see that the process is more available. And it is also to be understood that by this statute no remedy is provided for any mesnes, but only where there is but one mesne between the lord that distraineth and the tenant, and also in case where the mesne is of full age, and where the tenant may attorn unto the chief lord without prejudice of any other than of his mesne, which is spoken for women tenants in dower, and tenants by the curtesy, or for life, or in fee-tail, unto whom remedy is not yet provided.

10 Car. 1. st. 2.
c. 6. Ir.

Saving for clergy out of this statute of limitation.

P. 163. last line.—The clause of the 10 Car. 1. st. 2. c. 6. Ir. should be here stated, which provides, that this act shall not extend to any manors, lands, &c. tithes, or other profits, or other rights or possessions of any archbishoprick, bishoprick, deanery, archdeaconry, prebend, parsonage, vicarage, or other ecclesiastical living, or belonging thereto; but that they, and their successors, may have and maintain such writs, actions, and suits, for the rights of their churches, and make such entries thereinto, as before the making of this act.

33 Geo. 3. c. 38.
s. 1. Ir.

Burgess or freeman when entitled to costs of mandamus.

P. 182. l. 17.—The 33 Geo. 3. c. 38. Ir. provides, that where any person shall be entitled to be admitted a citizen, burgess, or freeman of any city, town corporate, &c. and shall apply to the mayor, or other officer of such city, &c. who hath authority to admit citizens, &c. to be admitted a citizen, &c. and shall give notice in writing specifying the nature of his claim to such mayor, &c. that if he shall not so admit such person a citizen, &c. within a month from the time of such notice, the court of king's bench will be applied to for a writ of *mandamus* to compel such admission; and if such mayor, &c. shall

shall, after such notice, refuse or neglect to admit such person, and a *mandamus* shall issue to compel such mayor, &c. to make such admission, and in obedience to such writ, such person shall be admitted by said mayor, &c. a citizen, &c. of such city, &c. then such person shall, unless the court shall see cause to the contrary, receive from said mayor, &c. all the costs of applying for, obtaining, and serving such *mandamus*, and enforcing the same, by a rule of said court, together with the costs of applying for, obtaining, serving, and enforcing such rule; and if such rule shall not be obeyed, the same shall be enforced as other rules. But, to prevent collusive entries of the elections of burgesses or freemen, this act provides, (s. 3.) that no *mandamus* shall issue for the admission of any burgess or freeman as aforesaid, unless sued within 7 years after the entry of his election. And by s. 2. the mayor, bailiff, town-clerk, or other officer of any city, &c. having the custody of, or power over the records of the same, shall, upon the demand of any 2 freemen or burgesses, furnish such freemen, &c. and their agents, with a copy of such entries of admission of freemen, &c. as shall be demanded, upon payment of 1s. for every copy or extract not exceeding 72 words, and so in proportion; and if any mayor, &c. shall refuse to give such copies, &c. he shall forfeit £100. to any person so demanding such extracts, to be recovered, with full costs, by action of debt in any court of record in Dublin: provided that such action shall be commenced within a year after the cause shall have arisen.

s. 3.

Mandamus to be sued in 7 years after election.

s. 2.

Mayors, &c. to furnish freemen, &c. with copies of entries of admission.

Penalty.

P. 187. l. 32.—By the 9 Edw. 3. st. 1. c. 3. E. & I. in a writ of debt brought against divers executors, the same executors shall have but one essoin before appearance, that is to say, at the summons or attachment, nor after appearance shall they have but one essoin, as the testator should have had, so that executors shall not fourch by essoin; and though the sheriff answer at the summons, that any of them hath nought wherewith he may be summoned, yet there shall be an attachment awarded upon him: and if the sheriff answer that he hath

9 Edw. 3. st. 1. c. 3. E. & I.

In debt against divers executors but one essoin, &c.

hath nought whereby he may be attached, the great distress shall be awarded, so that at the great distress returned they that first appear shall answer to the plaintiff; and though some of them have appeared, and make default at the day that the great distress is returned upon the other, yet they shall be put to answer that first appeared at the great distress returned; and in case the judgment pass for the plaintiff, he shall have his judgment and execution against them that have pleaded, and against all the other named in the writ, of the goods of the testator, as well as if they had all pleaded. And if any in such case will sue after the law that hath been used heretofore, he may do it.

3 Edw. 1. c. 46.
E. & I.

*One plea decided
before another
commenced.*

P. 189. l. 15.—The 3 Edw. 1. c. 46. E. & I. provides, that the justices of the king's bench shall decide all pleas determinable, at one day, before any matter be arraigned, or plea commenced the day following, saving that their essoins shall be entered, adjudged, and allowed.

52 Hen. 3. c. 18.
E. & I.

*Amercement for
default of com-
mon summons.*

P. 189. l. 16.—By the 52 Hen. 3. c. 18. E. & I. no escheator, commissioner, or justice, assigned to take assizes, or to hear and determine matters, shall have power to amerce for default of common summons, but the chief justices, or the justices in eyre in their circuits.

3 Edw. 1. c. 45.
E. & I.

*In what cases
the great distress
shall be awarded.*

P. 189. l. 16.—For avoiding delays in all manner of writs and attachments, the 3 Edw. 1. c. 45. E. & I. provides, that if the tenant or defendant after the first attachment returned make default, immediately the great distress shall be awarded; and if the sheriff do not make sufficient return by a certain day, he shall be grievously amerced; and if he return that he hath done execution in due manner, and the issues delivered to the sureties, then the sheriff shall be commanded that he return issues at another day before the justices; and if the party being attached come in at his day to save his defaults, he shall have the issues; and if he come not the king shall have them; and the king's justices shall cause them to be delivered in the wardrobe; and the justices of the bench at Westminster shall deliver them in the exchequer, and the justices in eyre unto the sheriff, and they shall be charged therewith in summons by the rolls of the justices.

By

By the 28 Edw. 1. st. 3. c. 15. E. & I. the summons and attachments in plea of land shall contain 15 days at the least, according to the common law, if it be not in attachment of assizes taken in the king's presence, or of plea before justices in eyre during the eyre.

28 Edw. 1. st. 3. c. 15. E. & I.

Writ of summons and attachment.

P. 192. l. 3.—By the 28 Edw. 1. st. 3. c. 16. E. & I. that shall be done with them that make false returns, (whereby right is deferred) as it is ordained in the 13 Edw. 1. st. 1. c. 39. E. & I. And by the 12 Edw. 2. st. 1. c. 5. E. & I. of returns that he delivered to sheriffs by

28 Edw. 1. st. 3. c. 16. E. & I. Penalty for false returns of writs.

12 Edw. 2. st. 1. c. 5. E. & I.

bailiffs of franchises, an indenture shall be made between the bailiff by his proper name, and the sheriff by his proper name. And if any sheriff change the return so delivered to him by indenture, and be thereof convict at the suit of the lord of the franchise, if the lord have any damage, or his franchise be prejudiced, and at the suit of the party that hath sustained loss, he shall be punished by the king for his false return, and shall yield unto the lord, and to the party, double damages. And sheriffs and other bailiffs that receive the king's writs returnable in his court, shall put their own names to the returns, upon pain of being grievously amerced. And by the 1 Edw. 3. st. 1. c. 5. E. & I. against the false returns of bailiffs of franchises a man shall have averment, and recover as well against them as against the king's sheriff, as well for too little issues returned, as in other cases, so that it fall not in prejudice of the lords or their franchise; and that the estate of holy church be always saved; and that the punishment fall only upon the bailiffs, by punishment of their bodies, if they have not whereof to answer.

Indenture between sheriffs and bailiffs of liberties.

1 Edw. 3. st. 1. c. 5. E. & I.

Averment against false returns of bailiffs.

P. 193. l. 12.—The 37 Edw. 3. c. 2. E. & I. recites, that great mischiefs do happen, because that escheators,

37 Edw. 3. c. 2. E. & I.

sheriffs, and other the king's ministers, do seize the lands, goods, and chattels of many, surmising that they be outlawed, because they bear such names as those which be outlawed, for default of good declaration of the surname; and therefore enacts, that if any complain in such case, he shall have a writ of *identitate nominis*, as in times past; and if any man's lands, &c. be seized in such case by any escheator, &c. he shall find surety before the minister

Identitate nominis when granted.

which

which hath the warrant to seize, to answer the king of the value of such lands, &c. in case that he cannot discharge him, without taking any thing of the party; and if such minister do not the same, and thereof be attainted, the party shall have his action against such minister, and recover double damages; and nevertheless such minister shall be grievously amerced. And by the 9 Hen. 6.

9 Hen. 6. c. 4.
E. & I.

Identitate nominis maintainable by executors.

c. 4. E. & I. a writ of *identitate nominis* shall bein like manner maintainable by executors. The 10 Hen. 6.

10 Hen. 6. c. 4.
E. & I.

Abuses of the process of outlawry restrained.

c. 4. E. & I. recites, that divers people have been outlawed, and greatly grieved, by entries made that plaintiffs in suits *obtulerunt se in propria persona sua*, where they never appeared; and therefore enacts, that no officer shall make such entry, except the plaintiff doth indeed appear in proper person before the justices where the plea depends, and, by himself, or some other credible person of his counsel, make oath that he is the same person in whose name the suit is prosecuted. And this statute is confirmed by the 18 Hen. 6. c. 9. E. & I. which further provides, that any officer who shall do to the contrary of the same, shall forfeit 40s. every time that he shall be attainted by examination before the justices: and every attorney who hath not his warrant entered of record in all his suits in which process of *capias* and *exigent* is awardable, the same term in which the *exigent* is awarded, or before, and thereupon attainted by like examination, shall incur the pain aforesaid.

18 Hen. 6. c. 9.
E. & I.

5 Edw. 3. c. 13.
E. & I.

Outlawry how avoided.

P. 195. l. 25.—The 5 Edw. 3. c. 13. E. & I. recites, that divers people being duly outlawed, have avoided the outlawries pronounced against them, by reason of imprisonments untruly testified by sheriffs, and others; and therefore enacts, that if any will defeat any outlawry by such testimony, he shall yield himself to prison, and then the justices of the king's bench shall cause the party at whose suit the outlawry was pronounced, to be warned to be before them at a certain day; at which day, if the party will verify that the testimony is untrue, his averment shall be received. And in like manner the king's serjeant, or his attorney, or other that will sue for the king, shall have the same averment against such testimony, where such outlawry is pronounced at the king's suit.

P. 196. l. 7.—By the 5 Edw. 3. c. 12. E. & I. where he
 against whom damages be recovered shall be outlawed at
 the king's suit, no charter of pardon shall be granted of
 this outlawry, except the chancellor be certified that the
 plaintiff is satisfied of his damages. And in case a man
 be outlawed before appearance, no such charter shall be
 granted, except the chancellor be certified, that such
 person hath yielded himself to prison before the justices
 of the place from whence the writ of *exigent* issued;
 and if the writ of *exigent* issued from justices of *oyer*
 and *terminer*, and they be risen, he shall yield him in the
 king's bench; and the said justices before whom they
 shall yield them, shall cause the plaintiff to be warned
 at a certain day, at which day if the warning be fully wit-
 nessed, and the plaintiff appear, they shall plead upon the
 first original as though no outlawry had been; and if the
 plaintiff come not, he that is outlawed shall be delivered
 by his charter. And all such charters shall be of the grace
 of the king as before.

5 Edw. 3. c. 12.
E. & I.

Pardon how al-
lowed to persons
outlawed.

P. 197. l. 3.—It should have been here stated that the
 12 Geo. 1. c. 29. Eng. was by s. 5. declared not to extend
 to Scotland.

P. 197. l. 34.—The 51 Geo. 3. c. 124. E. & c. recites
 the 12 Geo. 1. c. 29. Eng. 5 Geo. 2. c. 27. Eng. 19 Geo.
 3. c. 70. Eng. (*vide p. 196-7.*) and 43 Geo. 3. 46. U. K.
 (*vide p. 202.*) and enacts, that, (from the 1st Nov. 1811,) no person shall be held to special bail upon any process
 issuing out of any court, where the cause of action shall
 not have originally amounted to £15, exclusive of any
 costs incurred in suing for the same or any part thereof;
 (except where the cause of action shall arise upon any
 bill of exchange, or promissory note, in which cases the
 party may be held to special bail in such manner as if this
 act had not been made;) and in all cases when the cause
 of action shall not amount to £15. exclusive of costs, (ex-
 cept as aforesaid) and the plaintiff shall proceed by pro-
 cess against the person, he shall not arrest the defendant,
 but shall serve him personally, within the jurisdiction of
 the court, with a copy of the process and proceedings
 thereon, as by the 12 Geo. 1. c. 29. is provided in cases
 where the cause of action shall not amount to £10. in any
 superior

51 Geo. 3. c. 124.
E. & c.

Persons not held
to special bail for
sums less than
£15.

superior court, or to 40s. in any inferior court; and where the cause of action shall not amount to £15. exclusive of costs; (except as aforesaid) no special writ, nor any process specially expressing the cause of action, shall be sued forth from any court to compel any person to appear in such court; and all proceedings thereon shall be void. And whereas the provisions in the said recited acts authorizing plaintiffs, in default of appearance of defendants, to enter a common appearance or file common bail, are not deemed to extend to proceedings by original and other writs, whereon no *capias* is issued; this statute enacts, (s. 2.) that where the plaintiff shall proceed by original or other writ, and summons or attachment thereupon, in any action against any person not having privilege of parliament, no writ of *distringas* shall issue for default of appearance, but the defendant shall be served personally with the summons or attachment, at the foot of which shall be written a notice to the effect following:

s. 2.

Filing common bail, &c. extended to proceedings by original, &c.

Notice at foot of summons, &c.

“ *C. D. (naming the defendant)* you are served with
 “ this process at the suit of *A. B. (naming the plaintiff*
 “ *or plaintiffs)* to the intent that you may appear by your
 “ attorney in his majesty’s court of ——— at West-
 “ minster, at the return hereof, being the ——— day
 “ of ——— in order to your defence in this action:
 “ And take notice, that in default of your appearance,
 “ the said *A. B.* will cause an appearance to be entered
 “ for you, and proceed thereon as if you had yourself
 “ appeared by your attorney.” But in case it shall ap-
 pear to the satisfaction of the court, or, in the vacation,
 of any judge of the court from which such process shall
 issue, or into which the same shall be returnable, that the
 defendant could not be personally served with such sum-
 mons or attachment, and that such process had been duly
 executed at the dwelling-house or place of abode of such
 defendant, then it shall be lawful for the plaintiff, by leave
 of the court, or judge as aforesaid, to sue out a *distringas*
 to compel the appearance of such defendant; and at the
 time of the execution of such *distringas*, there shall be
 served on the defendant, by the officer executing such
 writ, if he can be met with, or if not, there shall be left
 at

Distringas how and when to issue, &c.

at his dwelling-house or other place where such *distringas* shall be executed, a written notice in the following form :
 In the court of ——— (*specifying the court in which the suit shall be depending*) between *A. B.* plaintiff, and *C. D.* defendant (*naming the parties.*) “Take notice, that
 “ I have this day distrained upon your goods and chattels
 “ for the sum of 40s. in consequence of your not having
 “ appeared by your attorney in the said court, at the re-
 “ turn of a writ of ——— returnable there on the ———
 “ day of ———; and that in default of your ap-
 “ pearing to the present writ of *distringas* at the return
 “ thereof, being the ——— day of ——— the said
 “ *A. B.* will cause an appearance to be entered for you,
 “ and proceed thereon, as if you had yourself appeared
 “ by your attorney. *E. F.* (*the name of the sheriff's of-
 “ ficer.*) To *C. D.* the above-named defendant: And if
 such defendant shall not appear at the return of such
 original or other writ, or of such *distringas*, within 8 days
 after the return thereof, it shall be lawful for the plaintiff,
 upon affidavit being made and filed in the proper court
 of the personal service of such summons or attachment,
 and notice written on the foot thereof as aforesaid, or of
 the due execution of such *distringas*, and of the service
 of such notice as hereby directed on the execution of such
distringas, to enter a common appearance for the defend-
 ant, and to proceed thereon, as if such defendant had
 entered his appearance; and such affidavit may be made
 before any judge or commissioner of the court, authorized
 to take affidavits in such court, or else before the proper
 officer for entering common appearances in such court,
 or his lawful deputy, and which affidavit is hereby directed
 to be filed *gratis*. And by s. 3. all the provisions of the
 19 Geo. 3. c. 70. Eng. respecting actions in inferior courts,
 where the cause of action shall amount to less than
 £10, shall be extended to all actions in such courts where
 the cause of action shall not amount to £15, exclusive of
 costs, &c. as aforesaid, (except where the cause of action
 shall arise upon any bill of exchange or promissory note,
 in which case the parties may be held to special bail as if
 this act had not been made;) and so much of any acts

*Notice there-
upon.*

*Common ap-
pearance en-
tered.*

s. 3.

*Provisions of the
19 Geo. 3. c. 70.
&c. how far re-
pealed.*

heretofore passed for the recovery of debts within certain districts and jurisdictions, which may have authorized the arrest and imprisonment of defendants where the cause of action amounts to less than £15, exclusive of costs, &c. shall be hereby repealed. But by s. 4. nothing in this act shall extend to Scotland or Ireland.

s. 4.
Scotland and
Ireland ex-
cepted.
7 W. 3. c. 25.
Ir.

P. 200. l. 29.—It should have been here noted, that the 7. W. c. 25. Ir. not only extends to process issuing out of the courts of king's bench and common pleas, but also to any "other court of justice," and is to be distinguished in that respect from the 13 Car. 2. st. 2. c. 2. Eng.

48 Geo. 3. c. 58.
G. B.

*Bail-bonds ta-
ken in actions at
the suit of the
king, how as-
signed.*

P. 206. l. 20.—The 48 Geo. 3. c. 58. G. B. provides, that if any person shall be arrested by any writ of *capias ad respondendum* issuing out of any court of record at Westminster, or out of the superior court of record of either of the counties palatine, or out of any of the courts of great sessions in Wales, at the suit of the king, and the sheriff or other officer shall take bail from such person, the sheriff or other officer, at the request and costs of the prosecutor of such writ, shall assign to the king the bail-bond taken from such bail, by indorsing the same, and attesting it under his hand and seal in the presence of two or more witnesses, (which may be done without any stamp, provided the assignment so indorsed be duly stamped before any suit be commenced thereupon;) and if such bail-bond be forfeited, such process shall thereupon issue as on bonds originally made to the king, and the court may, by its rules, give relief to the defendant.

29 Geo. 2. c. 15.
s. 3. Ir.

*Extortion of
sub-sheriffs, &c.
restrained.*

P. 207. l. 15.—The 29 Geo. 2. c. 15. s. 3. Ir. recites, that great impositions are practised by sub-sheriffs and sheriffs' clerks, concealing themselves when sent for to take bail, in order to extort exorbitant fees; and therefore enacts, that no sub-sheriff or sheriff's clerk shall take more than their legal fees; and upon complaint thereof, and due proof made before the court out of which the writ issued, such sub-sheriff, &c. shall forfeit £100, which penalty shall be estreated by such court into the exchequer.

13 Edw. 1. st. 1.
c. 15. E. & I.

P. 217. l. 6.—The 13 Edw. 1. st. 1. c. 15. E. & I. provides, that in every case in which such as be within age may

may sue, if they be eloined so that they cannot sue personally, their next friends shall be admitted to sue for them. *Infants eloined may sue by their next friend.*

P. 221. l. 20.—To avoid the delays by occasion of pleading of many bars to moieties and parts of land put in view and plaint, the 21 Hen. 8. c. 3. Eng. enacts, that the plaintiff in assize may at his pleasure sever and abridge his plaint of any part whereunto any bar is pleaded by moiety, in like manner as he might do in case the pleas in bar had been made and divided to any certainty or number of acres in the plaint; and the plaint for the residue of the lands not abridged shall stand good. The 33 Hen. 8. st. 1. c. 3. Ir. is the corresponding statute in Ireland. *21 Hen. 8. c. 3. Eng. Plaint in assizes abridged. 33 Hen. 8. st. 1. c. 3. Ir.*

P. 221. last line.—By the 17 & 18 Geo. 3. c. 45. s. 2. Ir. no plea of the outlawry of any plaintiff in any civil case shall have any effect, or be received as a plea in bar or abatement, or otherwise, in any court of law or equity, unless the party who pleads the same shall previously obtain and lodge with such plea, at the time of filing thereof, the consent of the attorney-general, and of the party at whose suit such outlawry was obtained, in writing, to the pleading of such outlawry, together with an affidavit verifying the truth of such plea; which consents the proper officer shall file without fee. *17 & 18 Geo. 3. c. 45. s. 2. Ir. Consent of attorney general, and affidavit, required upon pleas of outlawry.*

P. 231. l. 18.—With respect to trial by wager of battel the 3 Edw. 1. c. 41. E. & I. recites, that it seldom happened but that the champion of the demandant was sworn, in swearing that he or his father saw the seisin of his lord, or his ancestor, and that his father commanded him to deraign that right, and therefore provides, that from henceforth he shall not so swear: nevertheless his oath shall be kept in all other points. *3 Edw. 1. c. 41. E. & I. Oath of champion in writ of right.*

P. 231. l. 18.—As to trial by wager of law, the 9 Hen. 3. c. 28. E. & I. enacts, that no bailiff shall put any man to his open law, nor to an oath, upon his own bare saying, without faithful witnesses brought in for the same. And by the 5 Hen. 4. c. 8. E. & I. to eschew mischiefs which be as well within London as other places, for that divers feigned suits of debt have been taken by the people of said *9 Hen. 3. c. 28. E. & I. Wager of law. 5 Hen. 4. c. 8. E. & I.*

*Feigned sur-
mises to put de-
fendants from
their wager of
law, tried.*

said places against divers people, surmising that they have accounted before auditors assigned, of divers receipts, duties, and contracts, had betwixt them, and that they were found in arrear upon the account in divers great sums, where there was never receipt nor duty between such parties, to the intent to make them against whom such suits were taken to put them in inquest, and to put them from waging of their law; the judges before whom such actions shall be sued in cities and boroughs, shall have power to examine the attornies, and others, and thereupon to receive the defendants to their law, and to try the same by inquest, after the discretion of the judges.

52 Hen. 3. c. 14.
E. & I.

*Charters of ex-
emptions from
juries, &c. when
inoperative.*

P. 248. l. 18.—Concerning charters of exemption and liberties that the purchasers shall not be impanelled in assizes, juries, and inquests, the 52 Hen. 3. c. 14. E. & I. provides, that if their oaths be so requisite that without them justice cannot be administered, as in great assizes, perambulations, and in deeds or writings of covenant where they be named for witnesses, or in attainments, and in other like cases, they shall be compelled to swear.

P. 261. l. 16.—It should have been here observed, that the 22 Geo. 3. c. 46. Eng. contains a clause (s. 37.) corresponding to the 6th section of the 7 & 8 W. 3. c. 34. *supra*.

2 Hen. 4. c. 7.
E. & I.

*No nonsuit after
verdict.*

P. 264. l. 16.—By the 2 Hen. 4. c. 7. E. & I. where the verdict pass against the plaintiff, (and the matter be adjourned upon any difficulty in law) such plaintiff shall not be nonsuited.

25 Hen. 6. c. 8.
Ir.

*Lords how
amerced.*

P. 264. l. 16.—By the 25 Hen. 6. c. 8. Ir. no lord of parliament shall be amerced, in pleas real or personal, otherwise than other persons.

3 Edw. 1. c. 8.
E. & I.

1 Edw. 3. st. 2.
c. 8. E. & I.

*Fines for beau-
pleader abol-
ished.*

17 Car. 2. c. 6.
Eng.

7 W. 3. c. 10.
Ir.

*Damage cleer
abolished.*

P. 269. *bottom note*.—The 3 Edw. 1. c. 8. E. & I. and 1 Edw. 3. st. 2. c. 8. E. & I. should be here referred to as also abolishing the fines for *beaupleader*. And the 17 Car. 2. c. 6. Eng. and 7 W. 3. c. 10. Ir. should be here also stated which respectively enact, that no damage cleer shall be taken in any action sued in any of his majesty's courts; but said fee shall be abolished: and if any officer shall take any money in the name of damage cleer, or in lieu thereof, or shall delay to sign any judgment until damage

damage cleer be paid, he shall forfeit treble the sum so taken or demanded to the party grieved, to be recovered by bill, plaint, or information.

P. 275. last line.—The 4 Hen. 4. c. 23. E. & I. enacts, ^{4 Hen. 4. c. 23. E. & I.} that after judgment given in the courts of the king, the parties and their heirs shall be thereof in peace, until ^{Judgment reversible only by} the judgment be undone by attaint or by error, if any ^{attaint or error.} error there be.

P. 286. l. 22.—It is a provision of the 8 & 9 W. 3. ^{8 & 9 W. 3. c. 11. s. 2. Eng.} c. 11. Eng. that, if after judgment given for the defendant in any action, plaint, or suit, the plaintiff or demandant shall sue any writ of error to annul the said judgment, and said judgment shall be affirmed, or the said writ of error be discontinued, or the plaintiff be non-suit therein, the defendant or tenant in such action, &c. shall have judgment to recover costs against such plaintiff, &c. ^{Defendants to have costs of writs of error.} The 9 W. 3. c. 10. Ir. contains a similar provision. ^{9 W. 3. c. 10. s. 2. Ir.}

P. 289. l. 1.—By the 9 Ric. 2. c. 3. E. & I. if tenant for term of life, tenant in dower, tenant by the curtesy, or ^{9 Ric. 2. c. 3. E. & I.} tenant in tail after possibility, be impleaded, and plead ^{Writ of error or attaint maintainable by him in reversion.} to inquest, and lose by the oath of 12, or lose by default, or in other manner, he to whom the reversion belongeth at the time of such judgment given, his heirs or successors, shall have an attaint, and also a writ of error, as well in the life of such tenants as after their death. And if such judgment be reversed, or such false oath be found, the tenant that did lose by the first judgment (if he be in life) shall be restored to his possession, with the issues in the mean time, and the party pursuing to the arrearages of the rent, if any be due. And if such tenant be dead, restitution shall be made to the party pursuing with the issues after the death of the tenant, together with the arrearages of rent, if any were due. ^{s. 2.} Provided (s. 2.) that although the tenant be in life, if the party pursuing allege that the tenant was of covin, and of assent with the demandant which recovered, that such tenements should be lost, restitution shall be made to the party pursuing, with the issues and arrearages; saving to such tenant his action of *scire facias* out of the same judgment so reversed, or given in the writ of attaint, if he will traverse the covin and assent. ^{Tenant's traverse of covin alleged.}

P. 294.

1 Ann.st.2.c.6.
s. 1. Eng.

*Remedy in case
of escape from
the marshal of
king's bench or
fleet.*

* " Marshal of
the four
courts " in
8 Ann. c. 7.
Ir.

† *Vide 5 Ann.
c. 9. Eng. post.*

‡ " Other head
officers " and
" seneschals "
here added in
8 Ann. c. 7. Ir.
§ Not in 8 Ann.
c. 7. Ir.

¶ *Vide 5 Ann.
c. 9. Eng. post.*

P. 294. *l.* 29.—It seems, upon further reflection, that it would be proper to state the 1 Ann. st. 2. c. 6. Eng. 5 Ann. c. 9. Eng. and 8 Ann. c. 7. Ir. in this place. The 1 Ann. st. 2. c. 6. Eng. enacts, that if any person committed to the custody of the [*marshal of the queen's bench, or to the prison of the fleet,] either in execution, or upon mesne process, or upon any contempt in not performing any order or decree, by any of her courts of Westminster, shall, before he shall have made payment or satisfaction to the plaintiff or creditors, or shall have cleared such contempts, escape from the custody of the marshal, &c. or go at large; it shall be lawful, upon oath made [†before any of the judges] of that court where the party was committed, for such judge to grant unto any person warrants, reciting the actions, executions, or contempts, with which such person escaping stood charged, at the suit of any person on whose behalf such warrants shall be demanded, directed to all sheriffs, mayors,‡ bailiffs, constables, [§headboroughs and tithingmen,] commanding them in their respective counties, &c. and precincts, to retake such person escaped, and to convey him to the [¶common gaol] of such county where he shall be retaken, there to remain until he shall have made satisfaction to the plaintiff, &c. or until the judgment, on which such execution were sued, shall be reversed, or until judgment in such actions be given for such persons, or until the contempts for which such person was committed be cleared; except such person be charged with treason or felony, or any other matter on behalf of the crown; and if he, for any such cause on behalf of the crown, be removed to any other gaol, he shall be, in such gaol, charged with all the causes with which he shall be charged in the gaol from whence he shall be removed. And every such mayor, &c. after delivery of such prisoner, together with such warrant to the sheriff, shall take a note in writing from such sheriff, testifying the receipt of such prisoner; and such sheriff, after the execution of such warrant, shall

shall make a return thereof to the court where the action shall be depending, or judgment or decree obtained ; which shall be filed. And by s. 2. if any person so retaken shall escape out of the gaol to which he shall be conveyed, the sheriff shall be liable, as in case of any other escape. By s. 3. it shall be lawful for any persons that shall be bail, in her majesty's courts at [*Westminster,] for any person that shall be retaken by such warrant, to prosecute out of such courts where they shall be bail, a writ to the sheriff where such prisoner shall be committed, commanding such sheriff to detain such prisoner in custody in discharge of his bail ; which writ, with an account whether he hath the prisoner in his custody, shall be returned at a day therein mentioned : and the delivery of such writ to the sheriff shall be a render of the prisoner in discharge of bail : and in case such sheriff, or his officer, shall suffer the person to escape, they shall be liable to such action as the marshal, &c. By s. 4. all sheriffs, upon request of such bail who shall deliver such writ for detaining such prisoner, and for the usual fees of return, shall return the receipt of such writ, and the time, and whether the person was in his custody ; and in default thereof, shall forfeit †£50. to be recovered by action of debt, &c. in any court of record at [Westminster,] and upon producing such return, such court shall cause a *reddidit se* to be entered upon the bail-piece. By s. 5. this act shall be a general law, and shall be construed most beneficially for the preventing the mischiefs provided against ; and any person sued for putting in execution this act, may plead the general issue, and shall have treble costs of nonsuit, discontinuance, verdict, or judgment upon demurrer. And by the 5 Ann. c. 9. Eng. all persons taken by virtue of the 1 Ann. st. 2. c. 6. *supra*, shall, instead of being committed to the common gaol of the county, be committed to the prison where the sheriff keeps the debtors, to remain in custody of the sheriff, subject to the same rules as if they had been committed to the common gaol of the county ; and if any person so committed shall escape, the sheriff shall be answerable

s. 2.

Sheriff liable for escape of person retaken.

s. 3.

Render of prisoner in discharge of bail.

* "Dublin" in 8 Ann. c. 7. Ir.

s. 4.

Penalty for default of sheriffs.

† "£100." in 8 Ann. c. 7. Ir.

† "Dublin" in 8 Ann. c. 7. Ir.

s. 5.

Persons enforcing this act protected against actions.

5 Ann. c. 9. s. 1. Eng.

Persons retaken to be committed to debtors' prison.

s. 2.

Warrant may be
granted, on oath
before commis-
sioner of affid-
vits.

as in case of any other escape. And by s. 2. it shall be lawful for any one of the judges to grant like warrants upon oath, in writing, made before any person commissioned to take affidavits in the country, (the oath being filed,) as upon like oath made before himself. By s. 3. it shall be lawful to take, upon the Lord's day, any person by virtue of any warrant granted in pursuance of this or the former act. The 8 Ann. c. 7. Ir. has followed the 1 Ann. st. 2. c. 6. *supra*, with such deviations as are noted in the margin: but the 5 Ann. c. 9. Eng. has not been adopted in Ireland.

8 Ann. c. 7.
Ir.

33 Geo. 3. c. 5.
Eng.

Insolvents:

s. 4.

Prisoners com-
mitted on at-
tachments, &c.
discharged as in-
solvents.

P. 302. l. 8.—The 33 Geo. 3. c. 5. Eng. which extends the sum of £100. to £300. (as stated in page 295) should have been here referred to.

P. 307. l. 24.—The 33 Geo. 3. c. 5. Eng. recites, (s. 4.) that persons are often committed on attachments, for not paying money awarded to be paid under submissions to arbitration by rules of court, or under submissions to arbitration bonds, and which submissions have been made rules of court in pursuance of the 9 and 10 W. 3. c. 15. and likewise for not paying of costs duly taxed, and also upon writs of *excommunicato capiendo*, or other process grounded on the non-payments of costs or expenses in causes or proceedings in the ecclesiastical courts; and enacts, that all such persons shall be entitled to the benefit of this act, and subject to the same terms and conditions as are herein expressed with respect to prisoners for debt only. And by s. 5. where any debtor shall neglect to take the benefit of the 32 Geo. 2. c. 28. or of this act, within the time limited by these acts, and shall make it appear to the court out of which such execution issued, that such neglect arose from ignorance or mistake, such debtor shall be entitled to take the benefit of said act or this act, as if he had taken the same within the time limited. Provided that any creditor at whose suit any debtor shall be so in execution, may file interrogatories for the examination of such prisoner, before his being admitted to take the benefit of this act, or the 32 Geo. 2. c. 28. And provided that this act shall not extend to any debt to the crown, nor to any proceeding under any commission of bankrupt. And provided that this act shall not

s. 5.

Time enlarged
for taking the
benefit of this
act.

Creditor may
examine debtor
on interrogato-
ries.

Proviso.

extend

extend to Scotland. The 49 Geo. 3. c. 6. E. further provides, that all persons who shall be in custody for contempt of any court of equity, by not paying any sum of money or costs ordered to be paid by any decree or order of any such court, shall be entitled to the benefit of the 32 Geo. 2. c. 28. 33 Geo. 3. c. 5. and 37 Geo. 3. c. 85. subject to all the terms and conditions therein expressed with respect to prisoners for debt only.

49 Geo. 3. c. 6. E.

Persons in custody for contempt in equity discharged as insolvents.

P. 307. l. 24.—The 50 Geo. 3. c. 47. s. 1. I. repeals so much of the 37 Geo. 3. c. 49. Ir. as limits prisoners con-

50 Geo. 3. c. 47. s. 1 & 2. I.

finied on mesne process to exhibit their petition for relief before the end of the first term after such prisoner shall be committed under mesne process. And by s. 2. in all

Within what time declarations shall be delivered to prisoners.

cases where a debtor is or shall be arrested, detained, or charged in custody, by mesne process issuing out of K. B. C. B. or Exc. and the plaintiff shall neglect to cause a declaration to be delivered to such debtor, or to the marshal of the Four Courts, or his deputy, or to the gaoler or keeper of the gaol or prison where such debtor shall be detained, &c. within 8 days of the next term after the return of the process by virtue whereof such debtor shall be taken, &c. or within 21 days after the passing of this act (9th June, 1810) such debtor shall be discharged out of custody by order of said court, or a judge of said court out of which said process issued; and in case of a commitment or surrender to the marshal in discharge of bail, after the return of the process and before a declaration delivered as aforesaid, unless a declaration be delivered to such debtor within the first 8 days of the term next after such commitment or surrender, such debtor shall be discharged out of custody as aforesaid. And by s. 3. in all cases where a declaration shall be filed against such debtor as aforesaid, such debtor shall be discharged out of custody by order of the court or judge, unless the plaintiff shall proceed to trial or judgment before the end of the first 8 days of the third term after such declaration shall be delivered; the term in which such declaration shall be delivered to be counted as one; but in case the venue shall be laid in the county of the city of Dublin, or county of Dublin, then the plaintiff shall proceed to trial or judgment within the term after the delivery of such declaration,

s. 3.

Time limited for trial.

s. 4.

Time for charging prisoners in execution.

s. 5.

Insolvents not entitled to benefit of act where debts exceed £500.

s. 6.

When prisoners may petition for discharge.

s. 7.

Objections to discharge how made.

s. 8.

Weekly allowance to prisoners increased.

declaration, or in the sittings after such term; otherwise such prisoner shall be discharged as aforesaid. And by s. 4. in all cases where the plaintiff has obtained a verdict or judgment against any prisoner, he shall charge him in execution within the first 8 days of the next term after obtaining such verdict or judgment; otherwise such prisoner shall be discharged as aforesaid. By s. 5. such prisoner charged in execution may, before the end of the next term after such prisoner shall be so charged, exhibit a petition to any court of law from which such process issued, or by authority of which such prisoner may have been removed by *habeas corpus* into the custody of the marshal of the Four-Courts, for the benefit of the said maintenance act (37 Geo. 3. c. 49.) provided the amount of his debts for which he shall be detained in custody shall not exceed £500. And by s. 6. every prisoner who shall be charged in execution in any prison, &c. for any sum or sums not exceeding £500, and who shall be willing to satisfy his creditors as by said act is directed, may, before the end of the next term after he shall be so charged, or within 20 days after the passing of this act, exhibit his petition to the court out of which such process issued, or by authority of which he may have been removed by *habeas corpus* to the marshalsea of the Four-Courts, or rendered in discharge of his bail, for the benefit of said act. Provided (s. 7.) that the truth of each of the objections against the obtaining the benefit of this act, be proved by one witness or more, besides the testimony of the person making such objections, or other legal proof or evidence admissible in a court of law: and no person except a detaining creditor, or a person having commenced his action previous to the making such objections, shall be permitted to oppose the discharge of any prisoner seeking relief under this act. By s. 8. if any prisoner shall be remanded at the instance of the plaintiff, he shall pay him the weekly sum of 3s. 10d. for his maintenance, instead of 2s. 4d. allowed by the 37 Geo. 3. c. 49. and under the same terms as by said act directed in regard to the payment of 2s. 4d.; and the said sum of 3s. 10d. shall be paid to such prisoner before 12 o'clock, on the Monday of each week, or, in failure thereof, the marshal

shal of the Four Courts marshalsea, or any one alderman or other justice of peace for the city of Dublin, on affidavit of the deputy marshal or henchman belonging to said marshalsea (which oath such alderman, &c. shall administer) of the failure of such payment, shall discharge said prisoner. By s. 9. no creditor causing a prisoner to be remanded on merely an undertaking to pay the said weekly sum, shall detain said prisoner longer than 3 terms; but the said prisoner may, on the last day of the said term that such maintenance shall have been paid to him, produce to the court from whence he shall have been committed, a certificate of his having been detained by the payment of said weekly sum, signed (and verified upon oath if required) by the marshal or his deputy, and be discharged by the court from the same. By s. 10. whereas prisoners are often remanded at the instance of attornies employed against them, alleging that the plaintiffs live in a remote part of the kingdom, and that they had not time to communicate with said plaintiffs; it is therefore enacted, that in such cases where the court shall think fit to remand the prisoner, the said attorney shall deposit with the marshal a sum sufficient to pay the prisoner 1s. *per* day for his maintenance, until he be again brought up to receive the judgment of the court. Provided (s. 11.) that nothing herein shall extend to the release or discharge of attornies or servants embezzling money, except where such persons shall have have been confined in prison 10 years. By s. 12. whereas persons are often committed by courts of law and equity for contempts for not paying money ordered or awarded to be paid, and also for not paying of costs duly taxed, after proper demands made for that purpose, and also upon the writ of *excommunicato capiendo*, or other process for or grounded on the non-payment of money, costs, or expenses in some cause or proceeding in some ecclesiastical court, or for contempt to such court relating thereto; it is declared and enacted that such persons shall be entitled to the benefit of this act, in like manner as herein expressed with respect to prisoners for debt only. By

s. 9.

Term of confinement of prisoners receiving weekly allowance.

s. 10.

Allowance to prisoners remanded on application of attornies.

s. 11.

Proviso as to attornies and servants.

s. 12.

Prisoners for contempt to have the benefit of this act.

s. 13.

s. 13. *Prisoners may defend in person* s. 13. every prisoner confined for debt may plead and defend in his proper person, without attorney. By s. 14.

s. 14. *Time enlarged for taking benefit of act.* of said act within the time limited by said act, and shall make it appear to the court out of which such execution

s. 15. issued, that such neglect arose from ignorance or mistake, such debtor shall be entitled to the benefit of this act, as if he had petitioned for the benefit of said act within the time thereby limited. By s. 15. all gaolers

Gaolers shall inform prisoners of this act. and keepers of prisons in Ireland shall give notice of this act to all prisoners in their custody for debt, within

3 days after such prisoners shall have been committed or charged in execution; and if any gaoler, &c. shall neglect to give such notice, he shall forfeit to any person who shall sue for the same, £50. to be recovered by action of debt in any court of record in Ireland; and in every such action the proof shall lie on the person against whom the same shall be brought; provided that such action shall be brought within 12 calendar months after the cause of action incurred.

7 Geo. 3. c. 29. Eng.

In what cases sheriffs shall not have poundage.

P. 315. l. 38.—The 7 Geo. 3. c. 29. Eng. provides, that the 29 Eliz. c. 4. Eng. shall not extend to allow any sheriff, under-sheriff, or other person employed in the execution of process, any poundage for taking the body of any person in execution, upon any process at the suit of any sheriff, or other officer or minister of the crown, upon any bail bond entered into for the appearance of any person prosecuted for any duties payable to the king, or for any penalty inflicted by any act of parliament made or to be made for the preventing the clandestine running or receiving any customable or prohibited goods; or in any case where the sheriff or officer executing such process, would not be entitled to poundage, if the proceedings were carried on directly in the name of the crown.

Jurisdiction of chancery for relief of women from whom bonds, &c. are extorted, &c.
31 Hen. 6. c. 9. E. & I.

P. 333. l. 21.—A special jurisdiction is given to the court of chancery, by the 31 Hen. 6. c. 9. E. & I. in respect to women, enforced or by dissimulation or otherwise procured to be bound by statute merchant or obligation: This statute recites, that people of power have

have found inventions, to the danger of all ladies, gentlewomen, and other women sole, having substance of lands or goods, to take them by force, or otherwise come to them seeming to be their friends, promising them faithful love, and so, by dissimulation or otherwise, get them into their possession, conveying them into places where the offenders be of most power, and when any women are in their governance, the said persons will not suffer them to be at their liberty, till they bind them to the said offenders, or other persons to their use, in great sums by obligations or statutes merchant; also they many times compel them to be married contrary to their wishes, or they will levy the same sums of their lands and goods, and put their persons in danger; and therefore provides, that in such cases, the party bound may have a writ out of chancery, containing the matter of such unreasonable treatment, directed to the sheriff where such offences were done, commanding him that he make proclamation in the next county court, that the persons contained in the writ appear at a certain day and place before the chancellor, or before the justices of assize, or other person to be assigned by the chancellor; at which day, if the parties appear, the chancellor, justice, or other person assigned, shall examine the parties; by which examination, if they find the obligation to be made as aforesaid, the obligations and all process thereon shall be void; and if it be found that the obligations were made for a true duty, and by no such means as aforesaid, the obligations shall stand good; and if the persons in such writ named, make default at the day, &c. such obligations in the writs expressed, and all process thereupon, shall be void; and the sheriffs shall execute the writs, upon pain of £300. whereof the king to have one half, and the other half to the party who shall sue the writ of proclamation; and the party grieved may have an action of debt for the half of the £300. so forfeited, with process of outlawry; and the defendants shall allege no protection, nor wage their law, nor plead any foreign plea.

P. 453. l. 14.—The 50 Geo. 3. c. 73. G. B. contains 50 Geo. 3. c. 73
certain provisions or limitations as to baking on Sunday. G. B.
P. 461. *Baking on Sun-*
days.

50 Geo. 3. c. 51.
s. 1 & 2. G. B.

Mothers of bas-
tards how pun-
ished.

s. 3.

Justices may re-
duce the time of
confinement.

s. 4.

Proviso.

11 Hen. 7. c. 1.
Eng.

Persons shewing
allegiance to
king de facto
not to be at-
tainted for trea-
son.

29 Geo. 2. c. 12.
Ir.

P. 461. l. 19.—The 50 Geo. 3. c. 51. G. B. (which would have been more properly introduced *ante p. 35.*) may be here stated. By this act (s. 1.) so much of the 7 Jac. 1. c. 4. Eng. as relates to the commitment of women to the house of correction, there to be punished and set on work for having bastard children, is repealed. And by s. 2. it shall be lawful for any 2 justices of peace, before whom any woman having a bastard child which may be chargeable to the parish shall be brought, at their discretion, to commit such woman to the house of correction for the district or place, and there to be set on work for any time not exceeding 12 calendar months, nor less than 6 weeks. And by s. 3. it shall be lawful for any 2 justices of peace, at any petty session for the division wherein the parish to which such bastard child may be chargeable is situate, upon their own knowledge, or a certificate duly authenticated from the keeper of such house of correction, in which such woman shall have been for any space not less than 6 weeks, of the good behaviour of such woman during her confinement, and of the reasonable expectation of her reformation, by their warrant to order such woman to be immediately (or at the time to be appointed in such warrant) discharged from further confinement. Provided (s. 4.) that this act shall not authorize any justices to commit such woman to the house of correction, until she shall have been delivered for the space of a calendar month.

P. 473. l. 12.—The 11 Hen. 7. c. 1. Eng. provides, that no person who shall attend upon the king for the time being, in his person, and to do him true allegiance, or be in other places by his commandment in his wars, within the land or without, shall, for said deed, be convict or attain of high treason, nor of other offences for that cause, by act of parliament or otherwise, whereby he shall forfeit life or lands, &c. but any act or process thereupon had, contrary to this ordinance, shall be void.

P. 471. l. 39.—The 29 Geo. 2. c. 12. Ir. (*vide p. 1010.*) should have been here referred to as superseding the 13 Hen. 8. c. 1. Ir.

P. 488.

P. 488. l. 16.—The 8 & 9 W. 3. c. 26. Eng. provides ^{8 & 9 W. 3. c. 26.} (s. 8.) that the offences specified in the 6 & 7 W. 3. ^{s. 8. Eng.} c. 17. Eng. may be determined upon indictment or presentment in the king's bench, or before justices of ^{Offences in} ^{6 & 7 W. 3. c. 17.} ^{where tried.} oyer and terminer, or justices of assize, or general gaol delivery.

P. 499. l. 5.—The 51 Geo. 3. c. 110. U. K. recites, ^{51 Geo. 3. c. 110.} ^{U. K.} that the bank of England were preparing to issue silver tokens for the respective sums of 5s. 6d., 3s., and 1s. 6d. such tokens for 5s. 6d. being intended to contain, ^{Persons coun-} ^{terfeiting, &c.} ^{bank tokens,} ^{guilty of a fe-} ^{lony, and trans-} ^{ported.} on the obverse side thereof, an impression of his majesty's head, and the following words and letters: viz. "Georgius III. Dei Gratia Rex," and on the reverse thereof the following words and figures: viz. "Bank Token 5s. 6d." with the addition of the year in which the same shall be made and stamped; such tokens for 3s. being intended to contain the same impression, words, and letters, on the obverse side thereof, as upon the said tokens for 5s. 6d. and on the reverse side thereof, the following words and figures: viz. "Bank Token, 3 Shill." with the addition of the year in which the same shall be made and stamped; and such tokens for 1s. 6d. being intended to contain the same impression, words, and letters, on the obverse side thereof, as upon the said tokens for 5s. 6d. and on the reverse side, the following words and figures: viz. "Bank Token, 1s. 6d. with the addition of the year in which the same shall be coined or stamped; and therefore enacts, that if any person shall make, coin, or counterfeit, or cause or procure to be made, &c. or willingly act or assist in the making, &c. any token resembling, or made with intent to resemble or look like any of the said tokens, or with intent to pass as such, he shall be guilty of felony, and be transported for any term of years not exceeding 7. And by s. 2. if any person shall bring into the united ^{s. 2.} kingdom any such false or counterfeit token as aforesaid, knowing the same to be false, &c. with intent to utter the same within the united kingdom, or within any dominions of the same, he shall be guilty of felony, ^{Persons bring-} ^{ing such false} ^{tokens into the} ^{kingdom how} ^{punished.} and shall be transported for any term of years not exceeding

- s. 3. *Persons uttering such false tokens how punished.* ceeding 7. And by s. 3. if any person shall utter, offer or tender in payment, or give in exchange, or pay or put off to any person, any such false or counterfeit token, as aforesaid, knowing the same to be false, &c. he shall suffer 6 month's imprisonment, and find sureties for his good behaviour for 6 months more, to be computed from the end of the first 6 months; and if convicted a 2nd time, he shall suffer 2 years' imprisonment, and find sureties for his good behaviour for 2 years more, to be computed from the end of the first 2 years; and if convicted of such offence a 3rd time, he shall be guilty of felony, and be transported for 14 years.
- s. 4. *Convictions certified.* By s. 4. if any person shall be convicted of uttering, offering, or tendering in payment, any such false or counterfeit token as aforesaid, and afterwards be guilty of the like offence in any other county, &c. the clerk of assize, or clerk of the peace for the county, &c. where such former conviction shall be had, shall, at the request of the prosecutor, or any other on his majesty's behalf, certify the same by a transcript in a few words, containing the effect and tenor of such conviction, for which certificate 2s. 6d. shall be paid, and such certificate shall be proof of such former conviction.
- s. 5. *Penalty for having more than 5 false tokens.* s. 5. if any person shall have in his custody, without lawful excuse, (the proof whereof shall lie upon the party accused,) any greater number than 5 of such false tokens, such person being convicted upon the oath of a witness, before a justice of peace, shall forfeit such false tokens, (which shall be cut in pieces, and destroyed by order of such justice,) and shall forfeit any sum not exceeding £5. nor less than 40s. for every such false token which shall be found in the custody of such person; one moiety to the informer, and the other to the poor of the parish where such offence shall be committed; and in case such penalty shall not be forthwith paid, it shall be lawful for such justice to commit such person to the common gaol or house of correction, to be kept to hard labour for 3 calendar months, or until such penalty shall be paid.
- s. 6. By s. 6. it shall be lawful for any justice of peace, on complaint, upon the oath of a witness, that there

there is just cause to suspect that any person is or hath been concerned in making or counterfeiting such false tokens, resembling, or made with an intent to resemble any of the said tokens, so intended to be made or stamped, and issued and circulated by the said governor and company of the bank of England, or with an intent to pass as such; by his warrant to cause the dwelling-house, or other place belonging to such suspected person, or where any such person shall be suspected to carry on such making, &c. or to secrete any such counterfeit token, or the tools or implements for making, &c. such false tokens, or the materials for making or stamping the same, to be searched for such counterfeit tokens, materials, &c.; and if any such false token, or tools, &c. shall be found in any place so searched, or if any such tools, implements, or materials, shall be found in the custody or possession of any person not having the same by lawful authority, any person discovering the same, shall seize such token, tools, &c. and carry the same to a justice of peace of the county, &c. where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person who shall be prosecuted for any of the offences aforesaid, in some court of justice proper for the determination thereof; and after such time as any such false token, tool, &c. shall have been produced in evidence, as well so much as shall be so produced, as every other part so seized, and not made use of in evidence, shall, by order of such court, or of some justice of peace in case there be no such trial, be defaced or destroyed, or otherwise disposed of as such court or justice shall direct. By s. 7. no proceedings touching the conviction of any offender against this act before any justice of peace, shall be quashed for want of form, or removed by *certiorari*, &c. into any court of record at Westminster. By s. 8. no suit shall be commenced against any person for any thing done in pursuance or under colour of this act, until 14 days' notice thereof shall be given in writing to such person; nor shall such suit be brought after sufficient satisfaction or tender of amends shall be made or tendered to the party aggrieved; and every such

Power to justices of peace to search for false tokens, &c.

False tokens found, how disposed of.

s. 7.

Proceedings of justices final, &c.

s. 8.

Persons enforcing this act, protected against actions.

such suit shall be commenced within 3 calendar months after the fact, and shall be brought in the county, &c. where the cause of action shall arise : and the defendant may plead the general issue, &c. : and if any suit shall be otherwise brought than as aforesaid, the jury shall find for the defendant ; and the defendant shall have treble costs of verdict, nonsuit, discontinuance, or judgment upon demurrer.

51 Geo. 3. c. 127.
s. 1. G. B.

*A misdemeanor
to enhance the
price of gold
coin.*

s. 2.

*A misdemeanor
to depreciate
bank of Eng-
land notes, &c.*

s. 3.

*Bank of Eng-
land notes a
tender for rent,
quoad the re-
medy of distress,
&c.*

P. 504. *l.* 2.—The 51 Geo. 3. c. 127. G. B. provides, that no person shall receive or pay for any gold coin, lawfully current, more in value, benefit, profit, or advantage, than the true value of such coin, whether such value, &c. be paid, made, or taken, in lawful money, or in any note or bill of the bank of England, or in any silver token issued by said bank, or by all or any of the said means, wholly or partly, or by any other means or device, &c. ; and every person who shall offend herein shall be guilty of a misdemeanor. And by s. 2. no person shall by any means, &c. receive or pay any note or bill of the bank of England, for less than the amount of lawful money expressed therein, and to be thereby made payable, except only lawful discount on such note, &c. as shall not be expressed to be payable on demand ; and every person who shall offend herein shall be guilty of a misdemeanor. By s. 3. in case any person shall proceed by distress or poinding to recover from any tenant, or other person liable to such distress, &c. any rent or sum due from such tenant, &c. it shall be lawful for such tenant, &c. to tender notes of the bank of England payable on demand, to the amount of such rent, &c. either alone or together with a sufficient sum of lawful money, to the person on whose behalf such distress, &c. is made, or to the officer or person making such distress, &c. ; and in case such tender shall be accepted or refused, the goods so taken in such distress, &c. shall be forthwith returned to the party distrained upon, &c. unless the party distraining, &c. shall insist that a greater sum is due than the sum so tendered, and in such case the parties shall proceed as usual in such cases ; but if it shall appear that no more was due than

than the sum so tendered, the party who tendered such sum shall be entitled to the costs of all subsequent proceedings: Provided that the person to whom such rent, &c. is due, shall be entitled to all such other remedies for the recovery thereof, exclusive of distress, &c. as such person was entitled to at the time of making such distress, &c. if such person shall not think proper to accept such tender: Provided also, that nothing herein shall affect the right of any tenant, &c. having right to replevy or to recover the goods so taken in distress, &c. in case, without making such tender, he shall so think fit. By s. 4. any person who shall so commit in Scotland any offence against this act, which is hereby constituted a misdemeanor, shall be liable to be punished by fine and imprisonment, or by one or other of said punishments, as the judge, &c. may direct. By s. 5. this act shall not extend to Ireland.

s. 4.

*Offenders how
punished in
Scotland.*

s. 5.

*Ireland except-
ed.*

P. 524. l. 22.—By the 50 Geo. 3. c. 102. I. any person who shall administer, (or cause, &c.) tender, (or cause, &c.) or be present aiding and assisting at the administering or tendering, or who shall by threats, promises, persuasions, or other undue means, cause, procure, or induce to be taken by any person in Ireland, upon a book or otherwise, any oath or engagement importing to bind the person taking the same to be of any association, brotherhood, committee, society, or confederacy, formed for seditious purposes, or to disturb the public peace, or to injure the person or property of any person, or to compel any person to do, or omit or refuse to do any act, (under whatever name, description, or pretence, such association, &c. shall assume or pretend to be formed or constituted,) or any oath, &c. importing to bind the person taking the same to obey the orders, rules, or commands of any committee or other body of men not lawfully constituted, or of any captain, leader, or commander not appointed by or under the king, or to assemble at the desire and command of any such captain, &c. or of any person not having lawful authority, or not to inform or give evidence against any brother, associate, confederate, or other

50 Geo. 3. c. 102.
s. 1. I.

*Persons admin-
istering, &c.
unlawful oaths,
guilty of felony,*

other

other person, or not to reveal or discover his having taken any illegal oath, or not to reveal, &c. any illegal act done or to be done, or any illegal oath, &c. which may be administered or tendered to him, or the import thereof, whether such oath shall be afterwards so administered, &c. or not, or whether he shall take such oath, or enter into such engagement, or not, shall be guilty of felony, and be transported for 7 years. And

s. 3.

*Persons aiding,
&c. such offend-
ers, to be deem-
ed principals.*

by s. 3. all persons present, aiding or assisting at the administering or tendering of any such oath, &c. and all persons causing any such oath, &c. to be administered, &c. though not present, shall be deemed principal offenders, and tried as such, though the person who actually administered, &c. such oath, &c. shall not have been tried or convicted. Provided (s. 2.) that

s. 2.

*Proviso as to
persons com-
pelled by inevi-
table necessity.*

any person who may have been compelled by inevitable necessity to commit any of the offences aforesaid, upon proof of such necessity, shall be excused; provided that no such necessity shall justify any such person, unless he shall within 10 days, (if not prevented by actual force or sickness, and then within 7 days after such force, &c. shall cease to disable him from giving information of the same) disclose to a justice of peace in the county in which he shall then be, by information on oath, the whole of what he knows touching the compelling him to commit such offence, and of the person by whom he was compelled to commit such offence, and who were present at the time such offence was committed, and of the place where the same was committed: Provided that no person shall be so excluded from the defence of inevitable necessity, who shall be tried for said offence within 10 days from the commission of such offence, or of 7 days from the time when such force or sickness shall so cease. By s. 4. it shall not be necessary in any indictment for administering, tendering, or taking such oath, &c. to set out the words of such oath, &c. but it shall be sufficient to set forth the purport or object of such oath, &c.

s. 4.

*Form of indict-
ments.*

*5 & 6 Edw. 6.
c. 11. s. 11. Eng.*

*Misprision of
treason.*

P. 545. l. 2.—It should have been here observed that the 5 & 6 Edw. 6. c. 11. Eng. contains a similar clause to the 1 & 2 Ph. & M. c. 10. s. 8. Eng.

P. 598. l. 25.—The 25 Geo. 2. c. 36. Eng. provides ^{25 Geo 2. c. 36.} ^{s. 13. Eng.} (s. 13.) that any person entitled to any of the forfeitures imposed by this act, may sue by action of debt in any court of record at Westminster, in which it shall be sufficient to declare that the defendant is indebted to the plaintiff in the sum of ———, being forfeited by an act intituled “an act for the better preventing thefts and robberies, and for regulating places of public entertainment, and punishing persons keeping disorderly houses;” and the plaintiff, if he recover, shall have full costs: Provided (s. 14.) that such action shall be commenced ^{s. 14.} ^{Limitation.} within 6 calendar months after the offence. ^{Penalties in this act how recovered.}

P. 611. l. 1.—The 28 Edw. 1. st. 3. c. 10. E. & I. ^{28 Edw. 1. st. 3.} ^{c. 13. E. & I.} recites, that in respect of conspirators, false informers, and evil procurers of dozens, assizes, inquests and juries, the king hath provided remedy for plaintiffs by a writ out of chancery; and enacts, that the justices of the one bench and of the other, and justices assigned to take assizes when they come into the country to do their office, shall, upon every plaint made to them, award inquests thereupon without writ, and do right unto the plaintiffs without delay. ^{Inquests to be awarded without writ, to inquire of conspirators, &c.}

P. 613. last line.—To prevent the overcharge of the people by stewards of court-leets and court-barons, the ^{1 Jac. 1. c. 5.} ^{Eng.} 1 Jac. 1. c. 5. Eng. enacts, that no steward, deputy-steward, or other under-steward of such courts, shall, directly or indirectly, in his own name, or in the name of any other, take, receive, or make benefit to his own use in money, goods, or thing, to the value of 12*d.* by virtue or colour of any demise or grant of the profits or perquisites, or amercements of any such court, which rightfully shall belong to the lord of the same; upon pain of forfeiting £40. and to be disabled for ever to be steward of such court, or of any other; one half of such forfeiture to the king, and the other half to any of his majesty’s subjects that shall complain in any court of record, by action of debt, &c. And the 1 Jac. 1. c. 10. ^{1 Jac. 1. c. 10.} ^{Eng.} Eng. enacts, that no person to whom any order or cause shall be committed or referred by any court, shall, directly or indirectly, by any art or device, take or receive ^{Extortion by stewards of courts-leets restrained.} ^{What fees allowed upon references.} any

any money, fee, reward, covenant, obligation, promise, agreement, or other thing, for his report or certificate, by writing or otherwise, upon pain of forfeiting £100. and to be deprived of his office in such court; one moiety of said forfeiture to the king, and the other to the party grieved which will sue for the same, at any time during the suit, or within a year after the same cause discontinued or decreed; and in default of his suit, to him that will sue for the same by original writ, bill, plaint, or information, in any court of record at Westminster. Provided (s. 2.) that it shall be lawful for the clerk to take for his pains for writing of every such report, &c. 12*d.* for the first side, and 2*d.* for every side

*Penalty for ex-
torting more.*

25 Hen. 6. c. 3.
Ir.

*Penalty for ex-
action of toll.*

32 Geo. 3. c. 29.
Ir.

*Remedy against
treasurer, &c.
of corporation
in case of exac-
tion of toll, un-
less authority of
toll-gatherer
is claimed.*

after, and no more, upon pain to forfeit 10*s.* for every penny taken above said sum. The 25 Hen. 6. c. 3. Ir. provides, that no man shall take or levy, (or cause, &c.) any custom, of merchants or others, in the king's highway or elsewhere, but within cities, boroughs, or other merchant towns, where the said merchandizes be bought or sold, or brought to be sold there, as they have authority to take such customs, upon pain of forfeiting for every penny 20*s.* whereof the king shall have the two parts, and he from whom the said custom shall be taken shall have the third part. And by the 32 Geo. 3. c. 29. Ir. as often as any toll-gatherers shall seize or detain any goods or merchandizes for any tolls claimed by a corporation, it shall be lawful for the person aggrieved to apply to the mayor or chief magistrate to be informed whether such toll-gatherer has acted under the authority of such corporation or not, and such mayor, &c. shall give a certificate thereof to the person so applying; and in case such mayor, &c. shall refuse to give such certificate, or shall certify that such toll-gatherer has acted under the authority of such corporation, it shall be lawful for the person aggrieved to join the treasurer or chamberlain of such corporation with such toll-gatherer in any action or replevin; and in case he shall obtain judgment, by default or otherwise, he shall have like remedy against such treasurer, &c. as against such toll-gatherer; and such treasurer, &c. shall not be permitted

mitted to plead *non cepit* in such action or replevin; and in case such mayor, &c. shall certify that such toll-gatherer did not exact such toll under the authority of such corporation, then it shall be lawful to prosecute such toll-gatherer as a person raising money upon the subject without lawful authority.

P. 634. l. 19.—The 21st section of the 15 & 16 Geo. 3. c. 21. Ir. which is here stated, is superseded by the 27 Geo. 3. c. 15. Ir. *vide* p. 523. and 51 Geo. 3. c. 102. I. *ante* p. 93.

P. 636. l. 24.—By the 47 Geo. 3. st. 2. c. 54. I. any person who shall have arms in his possession at the time of passing this act, (13th August 1807.) or at any time before the sessions of the peace for the respective counties, which shall be held after the passing of this act, and who shall not have registered the same according to the provisions of the 38 Geo. 3. c. 21. Ir.* shall, at the sessions of the peace which shall be held next after the passing of this act for the county, &c. wherein he shall reside, deliver (or cause, &c.) in open court, to the justices then present, a written notification signed by him, specifying therein the place, parish, barony, or townland in which he shall be then resident, or, if in a county of a town or city, the parish, townland, or street in which he keeps arms, and the place where the same are usually kept, [†and the number and description of such arms,] accompanied by an affidavit sworn before some justice of peace for such county, &c. by the person signing such notification, that such notification is true, and that he is by law entitled to keep arms; which notification shall be read aloud in open court; and if the justices then present, or the majority of them, shall consider the person delivering such notification to be by law entitled to keep arms, and to be a fit person to keep arms, they shall thereupon sign and deliver to

47 Geo. 3. st. 2. c. 54. I.

Arms how registered.

* The registry pursuant to the 36 Geo. 3. c. 20. Ir. to which the 38 Geo. 3. c. 21. Ir. refers, was required to be made by delivering a similar notification to the clerk of the peace, or to any magistrate of such county, &c.

† This provision is not contained in the 36 Geo. 3. c. 20. Ir.

License of magistrates to retain same.

Duty of clerk of the peace.

Appeal from decision of justices in case of license refused.

s. 2.

Licenses to keep arms obtained in a similar manner.

such person a license, authorizing such person to keep arms, and specifying therein, if they shall think fit, the number and description of arms which such license is to authorize him to keep; and shall deliver such notification, (specifying at the foot or back thereof, the number and description of arms, if the same shall be specified in the license,) to the acting clerk of the peace, who shall register the same in books, (or in a book, if in a county of a town or city,) one whereof to be kept for every barony or half barony in the county, in alphabetical order, with the names and places of abode of every person making such notification, according to their respective baronies, or half baronies, where the place of abode shall be specified to be in a barony or half barony, (for which no fee shall be received;) which book shall be kept by the clerk of the peace at his office in the county, &c. and shall, at all seasonable times, be open to the inspection of any justice of the peace of such county, &c. and from which such justice may take such extracts as he shall deem fit: Provided that if the majority of the justices at the sessions shall refuse to grant such license, the person may appeal, if in the county of any city or town, to the next quarter sessions of any county at large adjoining thereto, and if in a county at large, then to the following session of the same county. And by s. 2. it shall be lawful for the justices of peace, upon an application, in writing signed by any person, for a license to keep arms, specifying in like manner his residence, accompanied by an affidavit sworn by the person signing the application, that he believes he by law is entitled to keep arms, to sign and deliver at any sessions of the peace to be held for the county, &c. in which such person resides, a license authorizing such person to keep arms, specifying therein, if they shall think fit, the number and description of arms which such license is to authorize him to keep, which application, with the number and description of arms indorsed thereon, if the same shall be specified in the license, shall be delivered by them to the acting clerk of the peace, who shall register the same

same in like manner as a notification, for which no fee shall be received. By s. 3. whenever any person who shall have obtained a license to keep arms under this act, shall, during the continuance of such license, change his place of abode, he shall deliver a certificate of such change, specifying the house to which such person shall have removed, to the clerk of the peace for the county, &c. in which such person was resident at the time of granting such license, and such certificate shall be registered in like manner as the notifications, &c. By

s. 3.

Parties licensed shall certify the change of residence.

s. 4. any person who shall have in his custody any arms that shall not have been registered as aforesaid, shall, on conviction by the oath of 2 witnesses, before any magistrate, for the 1st offence forfeit £10. to be levied by the warrant of such magistrate, or, in default of payment, be imprisoned for 2 months; and for the 2nd and every other offence shall forfeit £20. to be levied in like manner, or, in default of payment, be imprisoned for 4 months; and such arms shall be forfeited to the king. By s. 5. (as amended by the 50 Geo. 3.

s. 4.

Penalty on persons who shall have arms not registered.

c. 109. I.) any person who shall make such notification of his having arms, and shall obtain such license as aforesaid, shall, when required by any justice of peace within his jurisdiction, (which requisition shall be under the hand of such justice,) deliver to such justice an exact list or inventory of all the arms in his possession, verified by his affidavit to be made before any justice of peace:

s. 5.

Inventory of arms to be delivered to justices as often as required.

[*But whenever any person shall have been once so required to deliver such inventory, it shall not be lawful for said justice, or any other justice, to make any further requisition, nor shall such person be compellable to deliver such lists: Provided always, that the justices of the peace, or the majority of them, at any session of the peace, may from time require such list from any person within their jurisdiction, having made such notification and obtained such license as aforesaid.]

*By 50 Geo. 3. c. 109. s. 4. I.

By s. 6. it shall be lawful for the justices of peace, at any sessions, to withdraw any license heretofore given, and to cause the name of such person as they shall, at such sessions, deem an improper person to be entrusted with

s. 6.

Justices may withdraw licenses, &c.

arms

arms, to be erased out of the registry of arms, and cause a notice to be served on such person, or to be posted on his dwelling-house specified in said registry to be the residence of such person, or, in case of his having previously certified to the clerk of the peace of the county, that he changed his dwelling-house, then on the house to which he shall have so stated that he removed, signed by one of the justices of such session, and by the clerk of the peace, under the authority of such justices, or the majority of them, in sessions assembled, that such license is withdrawn. And by s. 7. if any person on whom such notice shall be served, shall not, within 48 hours after service of such notice as aforesaid, deliver to the next resident magistrate, or some neighbouring magistrate, at his place of abode, all such arms as were so registered, or account for the same to the satisfaction of such magistrate, such person shall be deemed to have in his custody arms that have not been registered, and shall be subject to the forfeiture and punishment in s. 4. *supra*; except where it shall appear to the magistrate before whom such offence is prosecuted, that the delay arose from accidental circumstances, and not from wilful neglect. By s. 8. (as amended by the 50 Geo. 3. c. 109. s. 2. I.) [*whenever any 2 justices of peace in any county, &c. shall have any reasonable grounds of suspicion, that any person within such county, &c. is unlawfully in possession of arms, or that any pikes, pike-heads, daggers or dirks, are in any house or place within such county, &c. such justices shall forthwith transmit to the lord lieutenant, or his chief secretary, a report signed by such 2 justices of such suspicion, with the grounds of such suspicion; and upon the receipt of such report, it shall be lawful for the lord lieutenant, or his chief secretary, by warrant under hand, to require such justices, or any other justice, to search, or cause search to be made within and throughout such county, &c. or within any parish, barony, or half-barony within such county, &c. as shall be specified in such warrant, for any arms, &c.;] and in case admission into the house of any such person be refused, or

s. 7.

*Penalty for not
delivering up
arms pursuant to
notice of justices*

s. 8.

*Justices, &c.
may enter houses
on suspicion of
having arms un-
registered.*

**By 50 Geo. 3.
c. 109 s. 2. I.*

or not obtained within a reasonable time after it shall have been first demanded, it shall be lawful for such justices or justice, or for any person authorized thereto by warrant of any 2 justices of peace, (which warrant shall not be granted, except on the information of a witness upon oath, that to the best of his knowledge or belief such person is unlawfully in possession of arms,) to enter by force into every such house, &c. or every part thereof; and if any arms, &c. shall be found in the possession of any such person, save in the house of a person giving such list or inventory as hereby required, or if any arms shall be found in the house of such person giving such inventory, and not specified therein, it shall be lawful for such justices, &c. to seize and carry away the same for the use of his majesty: [*And it shall not be lawful for any justice of peace to authorize or to join in authorizing any person to make any search for arms, &c. until such warrant shall have been granted by the lord lieutenant, or his chief secretary, as aforesaid.] Provided that nothing in this act shall affect any persons serving in his majesty's regular or militia forces, or in any yeomanry corps, or any privy counsellor, or member of parliament, or peace officer, in respect of any arms that they may have in their custody. By s. 9. no person shall exercise the trade of a blacksmith, who shall not have previously registered his name, and the place where his forge is situated, at some sessions of the peace for the district in which such forge is used, and shall also have obtained a license from the justices at such sessions, authorizing him to use and follow such trade; which registry and license shall be made, kept, and granted, in manner and form as the registry of and license for arms. By s. 10. it shall be lawful for the justices of peace, or majority of them, at any sessions of the peace, to withdraw such license from any blacksmith, if it shall be proved on oath to them that such blacksmith hath made, or knowingly suffered to be made in his forge, any pike or pike-head, after he shall have so obtained a license, and registered his forge as aforesaid; and if any blacksmith shall

*By 50 Geo.3.
c. 109. s. 2. l.

Proviso.

s. 9.

*Blacksmiths to
be registered and
licensed.*

s. 10.

*Justices may
withdraw licenses
from blacksmiths,
if pikes made.*

shall use any forge without such registry and license, he shall be liable to the like penalties as persons having in their custody unregistered arms are by s. 4. *supra*.

s. 11. And by s. 11. any smith, or other person, who shall make, or assist in making any pike, pike-head, dirk, dagger, spear, or instrument serving for pikes or spears, without a license from the master-general, lieutenant-general, or surveyor-general of the ordnance, shall be adjudged a felon, and be transported for 7 years: provided that nothing herein shall extend to any person having or making such weapons as aforesaid in the service or for the use of the king. By s. 12. (as amended by the 50 Geo. 3. c. 109. I.) it shall be lawful for any [*2 justices of peace] within their jurisdiction, (upon information on the oath of a witness, that, to the best of his knowledge and belief, any person is unlawfully in possession of arms, or that any pikes, pike-heads, daggers or dirks, are in any house or place, but not otherwise,) to search for arms, &c. in the house or premises of any person, or in any house or place mentioned in such information; and if any such shall be found, it shall be lawful for such magistrates, [†or for any person duly authorized by warrant under their hands and seals,] to seize and carry away the same to the use of his majesty; and the person in whose possession, custody, or keeping, such weapons shall be found, being convicted by due course of law, shall, for the 1st offence, be imprisoned for 12 calendar months, and for the 2nd and every other offence shall be adjudged a felon, and be transported for 7 years, unless such person shall prove to the court before which he shall be tried, that such weapon was in his custody or keeping, without his knowledge, privity, or consent. By s. 13. whenever any magistrate or other person shall seize or carry away any arms or weapons as aforesaid, such magistrate, &c. shall, with all convenient dispatch, transmit the same to one of his majesty's store-houses, or to the officer commanding the nearest detachment of his

s. 11.

Penalty on persons making pikes, &c. without license.

s. 12.

Justices may enter houses on suspicion of having pikes.

*By 50 Geo. 3. c. 109. s. 3. I.

Penalty thereon.

s. 13.

How arms seized shall be disposed of.

† This clause is not contained in the 50 Geo. 3. c. 109. s. 3. I. but is in the 47 Geo. 3. st. 2. c. 54. s. 12. to which the 50 Geo. 3. c. 109. refers.

majesty's troops, by him to be transmitted as aforesaid; and in every such case, such magistrate, &c. shall, immediately after he shall have seized or carried away any arms or weapons as aforesaid, transmit to the lord lieutenant, or his chief secretary, a written account of the number and nature of such arms, &c. and of the place where, and the person from whom such arms were respectively seized. By s. 14. all the pecuniary penalties in this act shall be raised and levied by sale of the goods of the person offending, by warrant of any justice of peace of such county, and such penalties shall, by such justice, be handed over to the treasurer of the county in which such sums are levied, to be applied to such purposes as the grand jury at any ensuing assizes shall think proper to present. By s. 15. the justices of peace authorizing any person to make any search under this act, shall make a true and faithful return of the name of every person so authorized, and their quality and descriptions, to the general session of the peace which shall be held next after such search. And by s. 16. the grand jury of every county, &c. at each assizes, and the grand jury at each presenting term for the county and county of the city of Dublin, shall present such sum to be raised off the county, as may be necessary to reward the clerks of the peace for their trouble in the execution of this act, not exceeding £10. at any one such assizes or presenting term.

s. 14.

Penalties how levied.

s. 15.

Justices to return to sessions the names of persons employed to search.

s. 16.

Clerks of peace how recompensed for trouble.

P. 636. l. 24.—The 50 Geo. 3. c. 102. I. provides (s. 5.) that if any person who hath given or shall give information or examination upon oath against any person for any offence, hath been or shall, before the trial of the person against whom such information or examination hath been or shall be given, be murdered or violently put to death, or so maimed or forcibly carried away and secreted, as not to be able to give evidence on the trial of such person, the information or examination of such person so taken on oath, shall be admitted in all courts of justice in Ireland, as evidence on the trial of every such person against whom such information, &c. was given: Provided that the information or examination of a witness secreted shall not be evidence, unless it shall

50 Geo. 3 c. 102.
s. 5. I.

Information, &c. of witnesses murdered or maimed, &c. evidence.

Proviso as to witnesses secreted.

s. 6.

*Money present-
ed for witnesses
maimed, or fa-
milies of wit-
nesses murdered*

shall be found, on a collateral issue, to be put to the jury trying the prisoner, that the person so secreted was secreted by the person then on trial, or by some person acting for him, or in his favour. And by s. 6. if it shall appear that any person having given information or evidence against any person charged with any offence against the public peace, shall have been murdered or maimed previous to the trial of the person or persons accused, or of any of them, or on account of any such evidence given, or that any magistrate or other peace officer shall be murdered or maimed on account of his exertions as such magistrate, &c. to bring disturbers of the public peace to justice, it shall be lawful for the grand jury of the county, &c. within which such murder, &c. shall have been committed, to present such sum as they shall think just, to be paid to the personal representative of such witness, magistrate, or peace officer, who shall be murdered, or to such witness, &c. who shall be maimed, having regard to the rank, degree, situation, and circumstances of such witness, &c. to be raised on the county at large, barony, half-barony, or parish, in which such murder or maiming shall have been perpetrated, at the discretion of such grand jury. By s. 7. it shall be lawful for any justice of peace in Ireland to arrest and bring before him, (or cause, &c.) any stranger sojourning or wandering, and to examine him on oath respecting his place of abode, the place from whence he came, his manner of livelihood, and his object or motive for remaining or coming into the county, &c. in which he shall be found; and unless he shall answer to the satisfaction of such magistrate, or provide sufficient security for his good behaviour, such magistrate shall commit him to gaol or to the house of correction, there to remain until he shall find such security, or until he be discharged by such magistrate: Provided that such magistrate shall, without delay after such committal, transmit to the lord lieutenant, a true report of such committal, and the grounds and reasons thereof, the amount of bail required, with the examination of the prisoner, and

s. 7.

*Justices may ar-
rest strangers
suspected.*

*Names of per-
sons so arrested
to be transmil-
ted to lord lieut-
enant.*

and the reasons alleged by him why he should not be committed, which such magistrate is required to take down in writing, in order that such person may be detained or discharged, as to the lord lieutenant may seem right. By s. 8. it shall be lawful for all magistrates of the adjacent counties at large, to execute this act within the several counties of cities, or counties of towns, except the county of the city of Dublin; and in like manner that the several magistrates of such counties of cities, &c. shall have like power to execute this act in the adjacent counties at large. And by s. 9. all powers given to and duties required from magistrates of counties at large under this act, shall be given to, &c. all magistrates of counties of cities, or counties of towns. By s. 10. if any action, &c. shall be brought against any person for what he shall do in pursuance of this act, the same shall be commenced within 6 months after the offence, and shall be laid within the county where the act was committed; and such person so sued may plead the general issue, &c. and if the plaintiff shall become nonsuit, or forbear prosecution, or suffer a discontinuance, or if a verdict or judgment on demurrer shall pass against him, the defendant shall recover treble costs.

s. 8.

Magistrates of adjacent counties may act within cities, &c. except Dublin.

s. 9.

Magistrates of cities, &c. to act as those of counties at large.

s. 10.

Persons enforcing this act protected against actions.

P. 655. l. 3.—The 40 Geo. 3. c. 29. Ir. (called the representation act, and which is incorporated in the act of union) enacts (s. 3.) that no meeting shall be summoned, &c. or held, for the purpose of electing any person to serve or act, or be considered, as representative of any place, town, city, corporation, or borough, other than the aforesaid, (enumerated in this act,) or as representative of the freemen, freeholders, householders, or inhabitants thereof, either in the parliament of the united kingdom, or elsewhere, unless it shall be otherwise provided by the parliament of the united kingdom; and every person summoning, calling, or holding any such meeting, or taking any part in any such election, or pretended election, shall incur the penalties of the statute of provision and *præmunire*, 16 Ric. 2. c. 5. E. & I.

40 Geo. 3. c. 29. s. 3. Ir.

Summoning, &c. meetings for electing representatives, otherwise than as in this act mentioned, how punished.

38 Geo. 3.c.78.
s. 1. Eng.

Printers of
newspapers, &c.
to deliver affi-
davits, &c. to
commissioners of
stamps.

s. 2.

What such affi-
davits, &c.
shall contain.

s. 3.

Proviso in re-
spect to number
of proprietors.

s. 4.

Like affidavit,
&c. to be made
in case of change
of residence.

P. 662. l. 11.—For preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, the 38 Geo. 3. c. 78. Eng. provides, that no person shall print or publish (or cause, &c.) any newspaper, or other paper containing public news or intelligence, or serving the purpose of a newspaper, until an affidavit or affirmation, made and signed as herein-after mentioned, shall be delivered to the commissioners for managing the stamp duties, at their head office, or to some of their officers in the respective towns, and at the respective offices which shall be appointed by said commissioners for receiving said affidavits, &c. (but which shall not be required to be upon stamped paper,) containing the several matters herein after specified. And by s. 2. such affidavits, &c. shall specify the true names, additions, descriptions, and places of abode of every person who is intended to be the printer and publisher of the newspaper, &c. mentioned in such affidavit, &c. and of all the proprietors of the same, if the number of such proprietors, exclusive of the printer and publisher, does not exceed two, and in case the same shall exceed such number, then of 2 of such proprietors, exclusive of the printer and publisher, and also the amount of the proportional shares of such proprietors in the property of the newspaper, &c. and the true description of the house or building wherein such paper is intended to be printed, and likewise the title of such paper. Provided (s. 3.) that where the number of such proprietors, exclusive of the printer and publisher, does exceed 2, the names of 2 proprietors, (the amount of each of whose proportional shares shall not be less than the proportional share of any other proprietor,) exclusive of the printer and publisher, shall be specified in such affidavit, &c. By s. 4. an affidavit, &c. of the like import shall be made, &c. as often as any of the printers, publishers, or proprietors named in such affidavits, &c. shall change their places of abode, or their printing house, place, or office, and as often as the title of the paper shall be changed, and as often as the commissioners for managing

managing the stamp duties shall see reasonable cause for requiring such affidavit, &c. and shall give notice that they do require the same, such notice to be left at such place as is mentioned in the affidavit, &c. last delivered, at the place at which such newspaper, &c. is printed. By s. 5. every such affidavit, &c. shall be in

s. 5. & 6.

writing, and signed by the person or persons making the same, and shall be taken by any one or more of said commissioners, or by any officer specially appointed

*Affidavits, &c.
how made and
signed.*

by said commissioners. By s. 6. where the printers and publishers of any newspaper, &c. together with such number of proprietors as are so required to be named in such affidavits, &c. shall not exceed 4 persons, the affidavit, &c. shall be sworn and signed, &c. by all said persons who are adult; and when the number shall exceed 4, the same shall be signed, &c. by 4 of such persons, if so many are adult, or by so many of them as are adult; but the same shall contain the true names, descriptions, and places of abode of every person who is intended to be the printer, publisher, and of as many of the proprietors as are herein-before mentioned, of such newspaper, &c.; and the persons so signing, &c. such affidavit, &c. shall give notice, within 7 days after such affidavit shall be so delivered, to each of the persons not signing, &c. such affidavit, &c. but named therein as a proprietor, printer, or publisher, that he is so named therein; upon pain of forfeiting £50. in case of neglect to give such notice. By s. 7. if any person shall know-

s. 7.

ingly and wilfully print or publish, (or cause, &c.) or shall knowingly and wilfully, either as a proprietor, or otherwise, sell, vend, or deliver out any newspaper, &c. such affidavit, &c. containing such matters as are required by this act, not having been duly signed, sworn, &c. and delivered, and as often as by this act is required, or any matter required by this act to be done not having been done, he shall forfeit £100. And by s. 8. if any

*Penalty for
printing, &c.
if requisites not
complied with.*

s. 8.

person shall knowingly and wilfully set forth in any affidavit, &c. any thing by this act required to be set forth, contrary to the truth, or shall knowingly or wilfully omit to set forth therein, according to the truth,

*Punishment for
false or imper-
fect affidavit,
&c.*

any-

- any matter by this act required to be set forth, he shall be liable to the penalties of perjury. And by s. 9. all such affidavits, &c. shall be filed and kept in such manner as the said commissioners shall direct, and the same, or copies thereof certified to be true copies as hereinafter is mentioned, shall, in all proceedings, civil and criminal, touching any newspaper, &c. be conclusive evidence of the truth of all matters set forth in such affidavits, &c. against every person who shall have signed, &c. such affidavits, &c. and shall also be received as sufficient evidence of the truth of such matters against every person who shall not have signed, &c. the same, but who shall be therein mentioned to be a proprietor, printer, or publisher of such newspaper, &c. unless the contrary be satisfactorily proved: Provided that if any such person against whom any such affidavit, &c. or copy thereof, shall be offered in evidence, shall prove that he hath signed, &c. and delivered to the said commissioners, or such officer as aforesaid, previous to the date or publication of the newspaper, &c. to which the proceedings shall relate, an affidavit, &c. that he hath ceased to be the printer, &c. of such newspaper, &c. such person shall not be deemed to have been the printer, &c. thereof, after the day on which such affidavit, &c. shall be so delivered. By s. 10. in some part of every newspaper, &c. there shall be printed the true name, addition, and place of abode of the printer and publisher of the same, and also a true description of the place where the same is printed; and any person who shall knowingly and wilfully print or publish, (or cause, &c.) any such newspaper, &c. not containing such particulars, shall forfeit £100; and proof made in manner herein-mentioned in any proceeding to recover the same, that the party is a printer or publisher of a newspaper, &c. so printed, &c. shall be taken as proof that such party is a person wilfully and knowingly printing, &c. the same, unless he shall satisfactorily prove the contrary. And by s. 11. it shall not be necessary after any such affidavit, &c. or certified copy thereof, shall have been produced in evidence as aforesaid, and after a newspaper, &c. shall be produced, intitled in the same manner as the newspaper, &c. mentioned
- s. 9.
- Affidavit, &c. filed, how far evidence.*
- Proviso.*
- s. 10.
- Name and description of printer, &c. to appear on every newspaper, &c.*
- s. 11.
- What shall be evidence of publishing, &c. to recover the penalties of this act.*

tioned in such affidavit, &c. and wherein the name of the printer and publisher, and place of printing, shall be the same, as the name and place mentioned in such affidavit, &c. for the plaintiff, informant, or prosecutor, or person seeking to recover any of the penalties given by this act, to prove that the newspaper, &c. was purchased at any house, shop, or office belonging to or occupied by the defendant, or by his servants or workmen, or where he, or his servants, &c. usually carry on the business of printing or publishing such paper, or where the same is usually sold. By s. 12. service at the house or place mentioned in such affidavit, &c. as the house, &c. at which such newspaper, &c. is printed or published, or intended to be, of any legal notice, summons, *subpæna*, rule, order, or process, or to enforce an appearance in any suit or proceeding, civil or criminal, against any printer, publisher, or proprietor of any such newspaper, &c. shall be deemed to be good service against all persons named in such affidavit, &c. as the printers, &c. thereof: provided that if any such person shall have signed, &c. and delivered to the said commissioners or such officer as aforesaid, previous to the date or publication of such newspaper, &c. an affidavit, &c. that he hath ceased to be the printer, &c. thereof, and shall make proof thereof, he shall not be deemed to be the printer, &c. after the day on which such affidavit, &c. shall have been so delivered. By s. 13. the commissioners or officers by whom such affidavits, &c. shall be kept according to this act, shall, upon application of any person requiring a copy of any affidavit, &c. in order that the same may be produced in any civil or criminal proceeding, deliver to such person a certified copy, upon payment of 1s. And by s. 14. a copy of any such affidavit, &c. certified under the hand of one or more of said commissioners or officers in whose possession the same shall be, shall, upon proof that such certificates have been signed with the handwriting of the person making the same, (and whom it shall not be necessary to prove to be a commissioner, &c.) be received as sufficient proof of such affidavit, &c. and that the same was duly sworn, &c. according to this act,

s. 12.

What shall be good service of legal process, upon printers, &c.

Proviso.

s. 13.

Certified copies of affidavits how obtained.

s. 14.

Certified copies evidence.

s. 15. act, and of the contents thereof. By s. 15. persons, not being such commissioner or officers as aforesaid, who shall give such certificates as aforesaid, shall forfeit £100.

Penalty for not giving certificates.

s. 16. And by s. 16. any person who shall knowingly and falsely certify that any affidavit, &c. was duly signed, &c. or that any copy is a true copy, shall forfeit £100. By

Penalty for false certificate.

s. 17. the printer or publisher of every newspaper, &c. shall, upon every day on which the same shall be published, or within 6 days after, deliver to the commissioners of stamps at their head office, or to some officer to be appointed by them, one of the papers so published upon each day, signed by the printer or publisher thereof, in his handwriting, with his name and place of abodes; and the same shall be carefully kept by the commissioners, &c. and such printer, &c. shall be entitled to receive from the commissioners, &c. once in 6 days, the ordinary price of the newspapers, &c. so delivered; and any printer, &c. who shall neglect to deliver one such newspaper, &c. as aforesaid, shall forfeit £100; and in case any person shall make application to the commissioners, or officer, as aforesaid, in order that such newspaper, &c. so signed by the printer or publisher, may be produced in evidence in any proceeding, civil or criminal, the commissioners, &c. shall, at the expense of the party applying, at any time within

An impression of every newspaper, &c. to be delivered to the commissioners of stamps.

Penalty for default.

2 years from the publication thereof, cause the same to be produced in court, or deliver the same to the party applying, taking reasonable security, at his expense, for returning the same; and in case, by reason that the same shall have been previously required by any other person to be produced in any court, or hath been previously delivered to any other person for the like purpose, the same cannot be produced at the time required, &c. in such case the commissioners, &c. shall cause the same to be produced, or shall deliver the same as soon as they are enabled so to do. By s. 24. if any person shall print or publish, (or cause, &c.) in any newspaper, &c. that shall be printed, &c. in England, any matter having a tendency to excite hatred and contempt of the person of his majesty, and of the constitution and government

Such impressions how given in evidence.

s. 24.

Penalty for seditious publications under pretence of being taken from foreign papers.

vernment established in these kingdoms, as having been previously printed, &c. in some foreign paper, which hath not been so previously printed, &c. such person shall, being convicted thereof, be committed to prison for any time not exceeding 12 nor less than 6 months, and be liable to such other punishment as may be inflicted in cases of high misdemeanor; and in every proceeding against any person in respect of his having so printed or published any such matter, it shall be incumbent upon the person against whom such proceeding shall be, to make proof that the same had been previously printed, &c. in some foreign paper or print. Provided (s. 25.) that if such proof shall be made, the publication respecting which such proceeding shall be had, shall be deemed to be of such nature in the law, as if this act had not been made. By s. 28. if any person shall file any bill for the discovery of the names of any persons concerned in the property of, or as printers, editors, or publishers of, or otherwise, in any newspaper, &c. or of any matters relative to the printing or publishing thereof, to enable him to bring or carry on any suit for damages alleged to be sustained by reason of any slanderous or libellous matter contained in such newspaper, &c. respecting such person, it shall not be lawful for the defendants to plead or demur to such bill, but they shall be compellable to make the discovery required: provided that such discovery shall not be made use of against the defendants, save only in that proceeding in which the discovery is made. By s. 29. all penalties which shall exceed £20. (except where this act hath otherwise directed) shall be recovered by action of debt, &c. in any court of record at Westminster, or the courts of great session in Wales, or the court of the counties palatine, [*or in the court of session, or court of exchequer in Scotland;] and all penalties which shall not exceed £20. shall, on proof upon oath of the offence, before any justice of peace of the county, &c. where the offence shall be committed, be levied by distress, &c. and for want of sufficient distress, such justice shall, in all cases where no parti-

s. 25.

Proviso:

s. 28.

Discovery of names, &c. of printers, &c. enforced in equity.

s. 29.

Penalties here recovered.

* The clauses of this act which have been abridged, do not (by s. 31.) extend to Scotland.

cular time of commitment is herein-before directed, commit such offender to the common gaol of the county, &c. for any time not exceeding 3 months; and one moiety of all fines shall be to the king, and the other to him who shall sue for the same, except where the application is otherwise directed by this act. By s. 30.

Convictions final no order or conviction made in pursuance of this act shall be removed by *certiorari*, [*advocation or suspension].

51 Geo. 3. c. 65.
s. 1. G. B.

P. 665. l. 12.—The 51 Geo. 3. c. 65. G. B. provides, that nothing in the 27th section of the 39 Geo. 3. c. 79. Eng.

Penalties in
39 Geo. 3. c. 79.
s. 27. *limited.*

(*vide* p. 663.) shall extend to make any person offending against the same liable to more than 25 penalties for printing, publishing, or dispersing, or assisting in publishing or dispersing any number of copies of the same paper or book, contrary to the said section of said act.

s. 2.

Penalties of
said act may be
mitigated.

And by s. 2. any magistrate before whom any person shall be convicted of any offence against said act, may, if he shall see cause, mitigate the penalty to any sum not less than £5. above all reasonable costs incurred in the prosecution. By s. 3. it is declared and enacted,

s. 3.

Name and resi-
dence of printer
need not be
printed on bank
notes, &c.

that nothing in the 39 Geo. 3. c. 79. or in this act, shall extend to require the name and residence of the printer to be printed upon any bank-note, bank post bill, bill of exchange, or promissory note, or upon any bond or other security for payment of money; or upon any bill of lading, policy of insurance, letter of attorney, deed or agreement; or upon any transfer or assignment of any public stocks, funds, or other securities, or of the stocks of any public corporation or company authorized by act of parliament, or upon any dividend warrant of or for any such public or other stocks, funds, or securities; or upon any receipt for money or goods or upon any proceeding in any court of law or equity, or in any inferior court; warrant, order, or other paper, printed by the authority of any board or public officer in the execution of the duties of their respective offices; notwithstanding the whole or any part of the said several securities, proceedings, &c. shall have been printed.

s. 4.

By s. 4. any person who shall think himself aggrieved by

by any conviction, judgment, or determination of any justice, relating to any matter in the 39 Geo. 3. c. 79. contained, may appeal to the justices at the quarter-sessions to be holden in and for the county, &c. next after 20 days from the making thereof, first giving 6 days notice of such appeal to the person prosecuting for such penalty; and the justices shall determine the said appeal at said sessions, or, if they think proper, adjourn the hearing thereof to the next quarter sessions for such county, &c.; and the said justices may mitigate any penalty, and may order any money to be returned which shall have been levied under any conviction as aforesaid, and may award such costs to be paid by either party as they shall think reasonable.

Appeal to quarter sessions from convictions, &c. under 39 Geo. 3. c. 79.

P. 672. l. 21.—The 51 Geo. 3. 23. U. K. enacts, that if any subject of his majesty, or any person residing or being within the united kingdom, or in any of the dominions, &c. now or hereafter belonging thereto, or being in his majesty's occupation or possession, or under the government of the united company of merchants trading to the East Indies, shall, by himself, or his factors or agents, or otherwise, carry away or remove, or aid or assist in the carrying away, &c. as a slave, for the purpose of being sold, transferred, used, or dealt with as a slave, any person from any part of Africa, or from any other country or place, either immediately, or by transshipment, or otherwise, directly or indirectly; or shall import or bring, or aid or assist in the importing, &c. into any island, colony, country, territory, or place, any such person, for the purpose aforesaid; or shall knowingly and wilfully ship, embark, receive, detain, or confine on board any ship, vessel, or boat, any such person, for the purpose of his being so carried away or removed, imported or brought, or being sold, transferred, used or dealt with as a slave; or shall knowingly and wilfully use or employ, or permit to be used, &c. or let or take to freight or on hire, any ship or vessel, to be used in or for the purpose of carrying away, &c. any such person as a slave, or for the purpose of his being sold, &c. as a slave, or shall fit out, or cause to be fitted out, or shall take the charge or command of, or navigate,

51 Geo. 3. c. 23 s. 1. U. K.

Several offences in respect to the slave trade, made felonies. &c.

How punished.

s. 2 & 3.

*Penalty of petty
officers, seamen,
&c.*

s. 4.

Proviso.

or enter and embark on board any such ship or vessel, as master or captain, mate, supercargo, or surgeon, knowing that such ship, &c. is actually employed, or is, in the same voyage for which he shall so enter or embark on board, intended to be employed in carrying or removing, importing or bringing any such person as or for the purpose of his being sold as a slave; every such offender, and his counsellors, aiders, and abettors, shall be felons, and be transported for a term not exceeding 14 years, or be confined and kept to hard labour for a term not exceeding 5 years, nor less than 3 years, at the discretion of the court before whom such offender shall be convicted. Provided (s. 2.) that if any person shall enter or navigate, or embark on board any such ship or vessel, used or employed, or meant to be used as aforesaid, as a petty officer, servant, or seaman, knowing that such is the purpose or one of the purposes of the voyage; or if any person shall underwrite, or procure to be underwritten, any policy of assurance upon any ship, &c. employed or intended to be employed in any such voyage, knowing that such is the purpose or one of the purposes of such voyage, he shall be guilty of a misdemeanor only, and be punished by imprisonment for a term not exceeding 2 years: And (by s. 3.) such persons shall not be punished as accessaries. Provided (s. 4.) that this act shall not extend to subject any person to the penalties hereby imposed, for exporting, removing, or carrying from any present or future British island, colony, or settlement in the West Indies, to any other present or future British island, &c. or from one part of such British island, &c. to another part, or for importing or transporting into any such island, &c. any slave born or to be born within such islands, &c. or which shall have been or may be lawfully brought into said island, &c. or for removing or carrying any slave from one part of any foreign island, &c. to another part of the same foreign island, &c. or for transshipping and assisting at sea, any slave which shall be in any ship or vessel in distress: and provided that nothing in this act shall extend to prevent the transportation to any foreign colony or place of any slave that shall have been convicted

victed by due course of law, in any present or future British island or colony, of any crime to which the punishment of transportation is or shall be annexed by the law of such island, &c.: but in every such case, a copy of the judgment or sentence, certified by the court before which the offender was convicted, shall be put on board the said ship, &c. in which such convict shall be transported.

By s. 6. all offences herein declared to be felonies or misdemeanors, which shall be committed in Africa, or in any port, sea, creek, or place, where the admiral has jurisdiction, shall be inquired of either according to the ordinary course of law, and the 28 Hen. 8. c. 15. Eng. or according to the 33 Hen. 8. c. 23. Eng. so far as it is not repealed, or according to the 11 & 12 W. 3. c. 7. Eng. And this act provides, (s. 9.) that if any person sailing or being in the capacity of a petty officer, or petty officer's servant or seaman, on board of any ship or vessel fitted out for or engaged in the unlawfully carrying, removing, trading, or dealing in slaves, shall, within 3 months after the arrival of said vessel at any port belonging to his majesty, give information on oath, before any competent magistrate, against any owner or part owner, or any captain, mate, surgeon, or supercargo of such ship, &c. and shall give evidence on oath against such owner, &c. before any magistrate or court before whom such offender shall be tried; or shall, within 3 months after his arrival at any port or place not within his majesty's dominions, give information to any of his majesty's ambassadors, ministers plenipotentiary, envoys, *charges d'affaires*, consuls, residents, or other agents, so that any person owning such ship, &c. or navigating or taking charge of the same as captain, &c. may be apprehended, such person giving such information and evidence, shall not be liable to any of the pains or penalties of this act, or any fine or other punishment under the 46 Geo. 3. c. 52. or 47 Geo. 3. st. 1. c. 36. herein recited; and his majesty's ambassadors, &c. are required to receive such information, and to transmit the particulars thereof, without delay, to one of his majesty's principal secretaries of state, and

s. 6.

Offences where tried.

s. 9.

Petty officers, &c. informing, indemnified.

to transmit copies of the same to the commanders of his majesty's ships or vessels then being in the same port.

43 Geo. 3. c. 157.
G. B.

*Offences made
felony by
19 Geo. 2. c. 34.
Eng. triable in
any county in
England.*

s. 2.

P. 678. l. 28.—By the 43 Geo. 3. c. 157. G. B. so much of the 19 Geo. 2. c. 34. Eng. as relates to the further punishment of persons going armed or disguised in defiance of the laws of customs or excise, and to the relief of the officers of the customs in informations upon seizures, is made perpetual. And by s. 2. for the more impartial trial of any indictment or information for any of the offences made felony by said act, and the several statutes which continued it, every such offence may be inquired of, &c. in any county in England, in such manner as if the fact had been therein committed: provided that no attainder for any of the offences made felony by said acts, shall work any corruption of blood, loss of dower, or forfeitures of lands or tenements.

5 Geo. 2. c. 4.
s. 11. Ir.

*Journeyman,
&c. assaulting
journeyman for
working, or mas-
ters for employ-
ing persons, how
punished.*

P. 719. l. 23.—The 5 Geo. 2. c. 4. s. 11. Ir. recites the 3 Geo. 2. c. 14. Ir. and enacts, that if any undertaker or journeyman shall beat, strike, or assault any other journeyman for working for his employer, or shall be any way aiding or assisting therein; or assault his master or employer for employing whatsoever persons he shall judge proper in his work and service, every such offender, being convicted upon the oath of a witness before any 2 justices of peace for the county, &c. where such offence shall be committed, within 3 months after the offence, shall forfeit 40s. one half to the person aggrieved, and the other half to the poor of the parish; and for default of payment, such offender shall be committed to the common gaol of the county, &c. where such offence shall be committed, for any term not exceeding 3 months.

2 Geo. 1. c. 17.
s. 7. Ir.

*Women with
child, or having
infectious dis-
ease, hiring as
nurses, or con-
tinuing to nurse,
how punished.*

P. 749. l. 2.—The 2 Geo. 1. c. 17. Ir. enacts. (s. 7.) that no woman shall hire herself to be a nurse, or take upon her the nursing of any child, knowing herself to be with child at the time; neither shall any woman continue to nurse any child after she knoweth herself to be with child, without giving notice thereof to the parents of the child; and no woman that hath any in-
fectious

fectious disease, which may be communicated to the child, shall hire herself to be a nurse, or take upon her the nursing of any child, or shall continue to nurse any child, after she shall discover herself to have any infectious disease; and if any woman offend therein, on complaint made to any justice of peace, or chief magistrate of any city or town corporate, the said justice, &c. shall appoint 2 or more physicians, surgeons, or midwives, as the case shall require, to examine the matter, and to make report upon oath, which the said justice, &c. may administer; and if they on their oaths declare, that in their judgment such woman hath offended in any of said particulars, then such nurse shall, by the judgment of such justice, forfeit such wages as shall be due to her, and all such money as she shall have received on account of such nursing, to be recovered in such manner as servants' wages are herein directed to be recovered; and also shall suffer such corporal punishment as by this act is appointed to be inflicted on servants counterfeiting or producing counterfeit certificates; (*vide* vol. 1. p. 389, 391.) Provided (s. 8.) that no nurse who is with child, shall be whipped for offending against this law, till 2 months after her delivery.

Offences how tried.

s. 8.

Proviso.

P. 749. l. 2.—To this place also should be referred the 11 Eliz. st. 3. c. 5. Ir. which recites, that persons do lay into rivers and other fresh running waters, their hemp and flax to be watered, and hides with lime bound up in them, by reason whereof the waters are so infected that fishes die, and men and beasts are poisoned, and meats and drinks are perilously corrupted; and therefore enacts, that no person shall so offend, upon pain to forfeit the hemp, flax, or hides, so laid contrary to this act, or the treble value of the same, one half to the crown, and the other to such as shall find or present the default, to be recovered by action of debt, &c. in any of the queen's courts. And by s. 2. the justices of peace in every county, &c. within the limits of their commissions, shall have power to determine every such offence, as well by information as by presentment, and to make such process upon every such presentment as upon indictments

11 Eliz. st. 3. c. 5. Ir.

Laying hemp and flax, or hides with lime, in rivers, &c. how punished.

s. 2.

Offences how tried.

s. 3. indictments of trespass. Provided (s. 3.) that this act
Proviso. shall not be prejudicial to lords of liberties, or bodies
 s. 4. corporate, as to their right to forfeitures. By s. 4. all
Act proclaimed. mayors, bailiffs, sheriffs, and other head officers, shall,
 4 times in the year, viz. in every quarter, make procla-
 mation of this act, in every market within their juris-
 dictions; and also the justices of gaol delivery, assizes,
 and justices of peace, in their circuits or sessions.

8 Ann. c. 3.
 s. 26. Ir.

*Popish priests
 marrying per-
 sons contrary to
 6 Ann. c. 16.
 presumed to have
 offended know-
 ingly.*

P. 751. l. 1.—The 8 Ann. c. 3. s. 26. Ir. recites the
 provision of the 6 Ann. c. 16. s. 6. Ir. here stated, and
 enacts, that if any popish priest shall be prosecuted for
 offending contrary to said statute, and that it doth appear
 that any one of the said persons so married, was a pro-
 testant, it shall be presumed and concluded to all intents
 and purposes, that such popish priest did celebrate ma-
 trimony between the said persons, knowing at the time
 of such marriage that one of them was of the protestant
 religion, unless the said popish priest can produce and
 prove a certificate under the hand and seal, or hands and
 seals, of the minister or ministers of the parish or parishes
 where the parties so married did, at the time of said mar-
 riage, respectively inhabit or reside, certifying that the
 said person or persons were not of the protestant religion
 at the time of the celebration of said marriage. But it
 seems to be questionable how far this provision of the
 8 Ann. c. 3. is not conditionally repealed or superseded
 by the 21 & 22 Geo. 3. c. 24. s. 5. Ir. vol. 2. p. 424—5.

49 Geo. 3. c. 124.
 s. 1. E.

*Where order of
 removal or va-
 grant pass sus-
 pended, any
 other justice of
 the county, &c.
 may order the
 same to be exe-
 cuted.*

s. 2.

*Time of appeal-
 ing how com-
 puted.*

P. 778. l. 4.—The 49 Geo. 3. c. 124. E. provides, that
 wherever the execution of any order of removal, or of
 any vagrant pass, shall be suspended by virtue of the
 35 Geo. 3. c. 101. Eng. that it shall be lawful for any
 other justice of peace of the jurisdiction within which
 such removal or pass shall be made, to direct that the
 same shall be executed, and the charges paid, and to
 carry into execution any such amended orders, as ef-
 fectually as the justices who made such order of removal,
 &c. And by s. 2. when such order of removal shall be
 suspended, the time of appealing against such order shall
 be computed, according to the rules which govern other
 like cases, from the time of serving such order, and not
 from

from the time of making such removal under the same. By s. 3. where any order of removal, or vagrant pass, shall be so suspended, on account of the dangerous sickness or infirmity of any person thereby directed to be removed or passed, the execution of such order shall also be suspended, for the same period, with respect to every other person named therein, who was actually of the same household or family of such sick or infirm person, at the time of such order of removal, &c. made or granted.

Suspension of order, &c. in case of sickness, may extend to others of the family.

P. 829. l. 34.—The 51 Geo. 3. c. 120. E. provides, that on the conviction of any offender, under the 42 Geo. 3. c. 107. for wilfully coursing or hunting, or taking in any slip, noose, toil, or snare, or killing, wounding, or destroying, or shooting, or otherwise attempting to kill, &c. or carrying away any red or fallow deer, kept or being in the unenclosed part of any forest, chase, purlieu, or ancient wall, without the consent of the owner of such deer, or without being otherwise duly authorized, or for knowingly being aiding, abetting, or assisting therein; it shall be lawful for the magistrate by or before whom such offender shall be convicted, to mitigate the penalty thereby imposed for the first offence to any sum not less than £20; to be levied in manner directed by the said recited act.

51 Geo. 3. c. 120. E.

Magistrates may mitigate the penalty in 42 Geo. 3. c. 107. for killing, &c. deer in the unenclosed parts of forests, &c.

P. 829. l. 34.—The clause of the 16 Geo. 3. c. 30. Eng. here stated, seems to supersede the 11th section of the 9 Geo. 1. c. 22. Eng. which provides, that it shall be lawful for any justice of peace to issue his warrant to any peace officer to enter into any house, to search for venison stolen or unlawfully taken contrary to the several statutes against deer-stealers, in such manner as he may issue a warrant to search for stolen goods.

9 Geo. 1. c. 22. s. 11. Eng.

Search for stolen venison.

P. 902. l. 10.—The 52 Hen. 3. c. 25. E. & I. enacts, that murder shall not be adjudged in cases of misadventure only, but in respect to such as are slain by felony, and not otherwise.

52 Hen. 3. c. 25. E. & I.

Homicide by misadventure.

P. 916. l. 5.—The 8 Ann, c. 3. s. 26. Ir. which is stated *ante* p. 113. is to be here also referred to.

8 Ann c. 3. s. 26. Ir.

P. 916. l. 28.—The 9 Geo. 2. c. 11. Ir. provides, (s. 7.) that nothing herein shall lessen or take away any of the penalties

9 Geo. 2. c. 11. s. 7. Ir.

penalties or disabilities inflicted against any persons who contract, celebrate, or are present at any clandestine marriage, by virtue of any of the laws or statutes now in force.

*No indictment,
&c. for words
spoken, unless
information in
2 calendar
months.*

*2 Geo. 1. c. 20.
s. 1. Ir.*

s. 2.

*Warrant there-
upon.*

P. 919. l. 16.—With respect to criminal prosecutions for words, the 2 Geo. 1. c. 20. Ir. provides (s. 1.) that no person shall be prosecuted for any words that shall be spoken, by indictment or information, unless information of speaking such words be given upon oath before a justice of peace of the county, &c. where such words shall be spoken, within a calendar month, or before one of the judges of his majesty's court of chief place, within 2 calendar months after the words are spoken. And by s. 2. upon such information, if the case shall require it, the chief justice, or other judge of the king's bench, or such justice of peace, shall issue his warrant for apprehending and bringing the person so accused before him, or some other of his majesty's justices of peace of the county, &c. where such words shall have been so spoken; and the chief justice, &c. before whom he shall be so brought, shall oblige him to appear the next term, assizes, or sessions, which shall be held for the county, &c. where such words shall be spoken, in order to his trial.

*5 Eliz. c. 10.
Eng.*

*Revival of 21
Hen. 8. c. 7.*

P. 923. l. 25.—The 5 Eliz. c. 10. Eng. should have been referred to as specially reviving the 21 Hen. 8. c. 7. Eng. which was repealed by the 1 Mar. st. 1. c. 1. Eng. (amongst the other statutes creating felonies, which were passed after the first year of the reign of king Henry VIII).

*51 Geo. 3. c. 38.
I.*

*Servants or
clerks secreting
money, &c. of
their masters or
employers, how
punished,*

P. 924. l. 33.—The 51 Geo. 3. c. 38. I. enacts, with respect to Ireland, (in a manner nearly corresponding to the 39 Geo. 3. c. 85. Eng.) that if any servant or clerk, or any person employed for the purpose or in the capacity of a servant or clerk, to any person or body corporate, shall, by virtue of such employment, receive or take into his possession, any money, goods, bond, bill, note, banker's draft, or other valuable security or effects, for or in the name or on the account of his master or employer, and shall fraudulently secrete or make away with the same, or any part thereof, such offender shall be deemed guilty of

of a misdemeanor, and to have embezzled the same from his said master or employer, for whose use, or in whose name, or on whose account, the same was delivered to or taken into the possession of such servant, &c. although such money, &c. was no otherwise received into the possession of such master, &c. than by delivery into the actual possession of his servant, &c. for the use of his master; and every such offender shall be liable to be transported to such parts beyond the seas, as his majesty, with the advice of his privy council, shall appoint, for any term not exceeding fourteen years, in the discretion of the court before whom such offender shall be convicted or adjudged.

P. 930. l. 36.—By the 50 Geo. 3. c. 59. U. K. if any person to whom any money or securities for money shall be issued for public services, shall embezzle such money, or in any manner fraudulently apply the same to his own use or benefit, or for any purpose whatever, except for public services, every such offender shall be guilty of a misdemeanor, and shall be transported beyond the sea, or receive such other punishment as may by law be inflicted on persons guilty of misdemeanors, and as the court shall adjudge. And if any such officer, collector, or receiver, entrusted with the receipt, custody, or management of any part of the public revenues, shall knowingly furnish false statements or returns of the sums of money collected by him, or entrusted to his care, or of the balances of money in his hands, or under his control, such officer, &c. shall be guilty of a misdemeanor, and shall be adjudged to suffer the punishment of fine and imprisonment, at the discretion of the court, and be rendered for ever incapable of holding any office under the crown.

50 Geo. 3. c. 59.
U. K.

Persons entrusted with public money, embezzling the same, how punished.

Collectors, &c. making false returns also punishable.

P. 955. l. 7.—The 3 Geo. 2. c. 4. Ir. enacts, (s. 3.) that if any person shall steal or take by robbery any exchequer acquittance, debenture, bills of exchange, goldsmiths' or bankers' notes for payment of money, bonds, warrants, bills, or promissory notes for the payment of money, being the property of any other person, or of any corporation, (notwithstanding any of said particulars are

3 Geo. 2. c. 4.
s. 3. Ir.

Felony to steal exchequer acquittances, &c. and other choses in action.

termed in law a *chose* in action) it shall be deemed to be felony of the same nature and degree, and with or without benefit of clergy or of the statute, as if the offender had stolen or taken by robbery any other goods of like value with the money due on such exchequer acquittance, &c. or secured thereby, and remaining unsatisfied.

49 Geo. 3. c. 122.
s. 12. E.

*Cutting away,
&c. buoys, &c.
how punished.*

P. 961. l. 2.—By the 49 Geo. 3. c. 122. s. 12. E. &c. if any person shall wilfully cut away, cast adrift, re-

move, alter, deface, sink or destroy, or shall do or commit any act, with intent and design to cut away, &c. or in any other way injure or conceal any buoy, buoy-rope, or mark belonging to any ship or vessel, or which may be attached to any anchor or cable belonging to any ship, &c. whether in distress or otherwise, such offender shall be guilty of felony, and be liable to be transported for any term not exceeding 7 years, or, in mitigation of such punishment, to be imprisoned for any number of years, at the discretion of the court in which the conviction shall be made. And by s. 13. if any person shall

s. 13.

*Persons pur-
chasing, &c.
anchors, &c.
when punished as
receivers of sto-
len goods.*

knowingly and wilfully, and with intent to defraud and injure the true owner thereof, or any person interested therein, purchase or receive any anchors, cables, or goods or merchandize, which may have been taken up, weighed, swept for, or taken possession of, whether the same shall have belonged to any ship, &c. in distress, or otherwise, or whether the same shall have been preserved from any wreck, if the directions herein-before * contained with regard to such articles, shall not have been previously complied with, such person shall be deemed guilty of receiving stolen goods, knowing the same to be stolen, as if the same had been stolen on shore, and suffer the like punishment as for a misdemeanor at common law, or be liable to be transported for 7 years, at the discretion of the court before which he shall be tried.

* This refers to s. 1. which requires a particular report in writing to be made of the time and place when and where any anchors, &c. were found, to the deputy vice admiral, or his agent, and all such articles to be delivered into a proper warehouse or place, (to be appointed by the vice admiral of each county,) within 48 hours after arrival at any port or place, or before leaving the port, if such person shall quit it before that time shall expire, upon pain of being deemed guilty of receiving goods knowing them to be stolen.

P. 969.

P. 969. l. 12.—The 49 Geo. 3. c. 122. E. &c. enacts, ^{49 Geo. 3. c. 122}
 (s. 32.) that all the means which, by virtue of the 12 Ann. ^{s. 32. E. &c.}
 st. 2. c. 18. Eng. subsist, and may be by law applied for the ^{Provisions of the}
 conclusively adjusting, and for the recovering of the ^{12 Ann. st. 2.}
 monies or gratuities to be paid to the several persons ^{c. 18. respecting}
 acting or being employed in the salvage of any ship, &c. ^{the adjustment}
 or the materials or stores belonging thereto, or goods, in ^{of salvage,}
 cases where application shall have been first made, pur- ^{amended.}
 suant to said act, to officers of customs, or other officers
 in that behalf mentioned, and assistance shall have been
 thereupon had in pursuance of said act, shall be available
 in like manner in cases where the salvors shall have
 acted under and by authority of any magistrate, or of
 the commander or other superior officers, mariners, or
 owners of any ship, &c. in distress, though no such ap-
 plication shall have been made to, nor any authority or
 assistance derived from, any officers of customs, &c. and
 thereupon, upon payment, or tender and refusal, of the
 quantum of the monies or gratuities to be paid to the
 several persons who shall have acted or been employed
 in such salvage; or in case such payment, &c. cannot be
 made, on security being given for the true payment
 thereof, to the satisfaction of the justices who shall have
 adjusted such quantum or gratuities, it shall not be law-
 ful for any officer of the customs, or other person having
 the custody of such ship, &c. any longer to retain the
 possession of the same, by reason of any claim for
 salvage.

P. 987. l. 33.—The 51 Geo. 3. c. 41. G. B. recites and ^{51 Geo. 3. c. 41}
 repeals the first section of the 18 Geo. 2. c. 27. Eng. and ^{G. B.}
 enacts, that any person who shall be guilty of any such ^{Larceny in}
 offence as therein and herein enumerated, shall (instead ^{bleaching}
 of suffering death, as in cases of felony without benefit ^{grounds, &c.}
 of clergy) be liable to be transported beyond the seas for ^{how practicable}
 life, or for such term, not less than 7 years, as the judge
 before whom such person shall be convicted shall ad-
 judge; or shall be liable, in case the said judge shall
 think fit, to be imprisoned and kept to hard labour in the
 common gaol, house of correction, or penitentiary house,
 for any term not exceeding 7 years.

P. 988.

51 Geo. 3. c. 39. l. 1. — *P. 938. l. 1.*—The 51 Geo. 3. c. 39. I. recites and repeals the 77th section of the 3 Geo. 3. c. 34. Ir. (*vide p. 937.*) and enacts, that every person who shall be convicted, according to the law and statutes of Ireland, of such offences as therein and herein enumerated, shall, (instead of suffering death without benefit of clergy) be liable to be transported beyond seas for life, or for such term, not less than 7 years, as the judge before whom such person shall be convicted shall adjudge; or shall be liable, in case the judge shall think fit, to be imprisoned only, or to be imprisoned and kept to hard labour in the common gaol, house of correction, or penitentiary house, for any term not exceeding 7 years.

1 Geo. 1. st. 2. c. 48. s. 4. Eng. *P. 1007. l. 29.*—By the 1 Geo. 1. st. 2. c. 48. s. 4. Eng. if any person shall maliciously set on fire, or burn, or cause to be burned, any wood, underwood, or coppice, or any part thereof, such malicious setting on fire, &c. shall be felony; and such offender shall suffer the penalties of felony; and where such offences are committed in Scotland, the offenders shall suffer as wilful fire-raisers, according to the 7 Ann. c. 21.

P. 1029. l. 19.—The 23 & 24 Geo. 3. c. 30. s. 8. Ir. which is stated (p. 642.) under the head of riot, should have been here referred to.

49 Geo. 3. c. 13. l. 1. *P. 1056. l. 4. to 14.* The 49 Geo. 3. c. 13. I. recites and repeals the 5th section of the 38 Geo. 3. c. 53. Ir. except as to offences committed before the expiration of 10 days after the passing of this act, (20th March 1809); and enacts, that if any person shall, after the expiration of said 10 days, purchase or receive from any other person any forged or counterfeited bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, of the bank of Ireland, knowing the same to be forged, &c.; or shall knowingly or wittingly have in his possession or custody, or in his dwelling house, out-house, lodgings or apartments, any such forged or counterfeited note, &c. knowing the same to be forged, &c. without lawful excuse, the proof whereof shall lie upon the person accused, every such offender shall be adjudged a felon, and be transported for 14 years.

P. 1075.

P. 1075. *l.* 5. The 51 Geo. 3. c. 22, 26, and 49, severally contain clauses similar to that of the 48 Geo. 3. c. 76. s. 24. U. K. And the 51 Geo. 3. c. 16. G. B. (which is an act for granting annuities, to discharge certain exchequer bills,) enacts, (s. 11.) that if any person shall forge or counterfeit, (or cause, &c.) or willingly act or assist in the forging, &c. any certificate directed to be made out by this act, or any assignment thereof, or indorsement thereon, or shall alter any number, figure, or word in any such certificate, or in any assignment thereof or indorsement thereon, or utter or publish as true any such false, &c. certificate, &c. with intent to defraud his majesty, or the bank of England, or any body corporate, or person, he shall be guilty of felony without benefit of clergy. And the 51 Geo. 3. c. 61. G. B. (which is an act for charging the sum of £.7,500,000, on the war duties,) enacts (s. 5.) that if any person shall forge or counterfeit, (or cause, &c.) or wilfully aid or assist in the forging, &c. any certificate or order made by virtue of this act, or alter any number, figure, or word therein, or present for payment, utter, vend, barter, or dispose of any such forged, &c. certificate, he shall be guilty of felony without benefit of clergy. And the 51 Geo. 3. c. 15. G. B. (which is an act enabling his majesty to direct the issue of exchequer bills to the amount of £.6,000,000 for the assistance and accomodation of manufacturers and other persons,) enacts, (s. 71.) that if any person shall forge, counterfeit, or alter, (or cause, &c.) or knowingly or willingly act or assist in the forging, &c. any certificate of the commissioners by this act appointed, or any of them, or any receipt to be given by the cashier of the bank of England, in pursuance of this act; or shall wilfully deliver to the auditor of the exchequer, or to any officer appointed by him, or to the said commissioners, or to any officer appointed by them or any of them, in the execution of the powers of this act; or shall utter any such forged, &c. certificate or receipt, knowing the same to be forged, &c. with intent to defraud the king, or any body corporate, or person, he shall be guilty of felony, without benefit of clergy.

51 Geo. 3. c. 22.
1. 26 & 48. G. B.

Forging, &c.
certificates, &c.
required by these
acts, a capital
felony.

51 Geo. 3. c. 16.
s. 11. G. B.

51 Geo. c. 61.
s. 5. G. B.

51 Geo. 3. c. 15.
s. 71. G. B.

26 Geo. 3. c. 31. s. 21. Eng. *32 Geo. 3. c. 55. s. 9. Eng.* *Forging, &c. certificates, &c. required by these acts, a capital felony.* *P. 1076. l. 22.* The 26 Geo. 3. c. 31. Eng. and 32 Geo. 3. c. 55. Eng. which provide for the reduction of the national debt, respectively enact, that if any person shall forge or counterfeit, (or cause, &c.) or wilfully act or assist in the forging &c. any certificate or order made by virtue of this act; or alter any number, figure, or word therein, or present for payment, utter, vend, barter, or dispose of any such forged, &c. certificate, knowing the same to be forged, &c. he shall be guilty of felony, without benefit of clergy. And the 37 Geo. 3. c. 27. Ir. contains a similar clause.

49 Geo. 3. c. 108. s. 10. G. P. *Forging, &c. signature to certificates required by 32 Geo. 3. c. 34. Eng. a capital felony.* *P. 1085. l. 5.* The 49 Geo. 3. c. 108. G. B. enacts, (s. 10.) that if any person shall falsely make, forge, or counterfeit, (or cause, &c.) or willingly act and assist in the false making, &c. the signature of any minister, church-warden, elder or inhabitant of any parish, to any certificate to any petition for a certificate as required by the 32 Geo. 3. c. 34. Eng. to enable any person to obtain letters of administration to any such petty officer or seaman, non-commissioned officer of marines or marine; or shall utter or publish as true any such certificate to any such petition, with any false, forged, or counterfeited signature of any such minister, &c. knowing the same to be false, &c. such offender shall be guilty of felony without benefit of clergy.

49 Geo. 3. c. 45. s. 10. U. K. *Personating, &c. any person entitled to half-pay, &c. a felony, punishable with transportation.* *P. 1086. l. 30.—*By the 49 Geo. 3. c. 45. U. K. if any person shall wilfully and knowingly personate, or falsely assume the name or character of, or procure any other person to personate, &c. any person entitled or supposed to be entitled to any such allowance, or of any officer of the royal marines on half pay as aforesaid, in order to receive such allowance or half pay, or any part thereof, he shall be guilty of felony, and may be transported for such period, not exceeding 14 years, as the court shall adjudge. And by s. 11. if any person shall knowingly and wilfully forge or counterfeit, (or cause, &c.) or knowingly and wilfully act or assist in forging, &c. the name or hand-writing of any person or officer entitled to any such allowance or half pay, or of any person required by any rules, made by virtue of this act, to sign any remittance

remittance bill, certificate, voucher, or receipt, knowing the same to be forged, &c. with intention to defraud any person; such offender shall be guilty of felony, and may be transported for such period, not exceeding 14 years, as said court shall adjudge. And the 49 Geo. 3. c. 35. U. K. contains similar clauses with respect to the pensions payable to widows of officers of the navy, in pursuance of this act. 49 Geo. 3. c. 35. s. 9 & 10. U. K. Similar clauses in this act.

P. 1086. l. 30.—The 36 Geo. 3. c. 56. Ir. which is “an act for establishing an easy and expeditious method for the payment, in this kingdom, of half pay to certain naval officers, and of pensions to the widows of such officers, and bounties to the relations of naval officers, seamen, and marines, slain in fight with the enemy; and to enable petty officers in the navy, boatswains, gunners, carpenters, and seamen, landmen, non-commissioned officers of marines, and marines, serving in his majesty’s navy, to allot part of their wages or pay for the maintenance of their wives and families resident in this kingdom,” enacts, (s. 23.) that if any person shall falsely make, forge, or counterfeit, (or cause, &c.) or willingly act and assist in the falsely making, &c. any such declaration, or order for payment, or any remittance certificate or bill, or any certificate or receipt, or other document herein-before described or mentioned, or shall utter, or publish as true, any such false and forged declaration, &c. or any writing, purporting to enable any person to obtain any sum of money, authorized by this act to be paid, he shall be guilty of felony without benefit of clergy. 36 Geo. 3. c. 56. s. 23. Ir. Forging, &c. the documents herein mentioned a capital felony.

P. 1089. l. 11.—The 46 Geo. 3. c. 83. E. contains a clause with respect to the forging, &c. the drafts, writings, or instruments of the receiver general of the post-office, or his clerk, which is similar to that of the 46 Geo. 3. c. 75. and 46 Geo. 3. c. 150. as here stated. And this provision of the 46 Geo. 3. c. 83. E. is extended by the 47 Geo. 3. st. 2. c. 59. E. to the drafts, writings, or instruments of any person authorized by the receiver-general of the post-office. And a similar provision is also contained in the 49 Geo. 3. c. 113. G. B. in respect to 46 Geo. 3. c. 83. s. 9. E. Forging, &c. name, &c. of receiver-general of post-office, a capital felony. 47 Geo. 3. st. 2. c. 59. s. 3. E. 49 Geo. 3. c. 113. s. 12. G. B.

*Agent general
of volunteers.*

to the drafts, writings, or instruments of the agent general for the volunteers and local militia, or his deputy.

50 Geo. 3. c. 65.
s. 8. E.

P. 1089. *l.* 22.—The 50 Geo. 3. c. 65. E. contains

*Forging drafts,
&c. of commis-
sioners of king's
woods, &c.*

the same provisions with respect to the drafts, writings, or instruments of the commissioners of his majesty's woods, forests, and land revenues, as the 46 Geo. 3. c. 142. E. does with regard to the surveyor-general of woods, or his deputy.

49 Geo. 3. c. 81.
s. 1. G. B.

P. 1100. *l.* 7.—The 49 Geo. 3. c. 81. G. B. (which amends the 34 Geo. 3. c. 20. s. 9. Eng. and 47 Geo. 3.

*Forging stamps,
&c. upon cover
or wrapper of
paper, &c. di-
rected by 34 Geo.
3. c. 20 punish-
able with trans-
portation.*

st. 2. c. 30. s. 13. G. B.) enacts, that if any person shall, upon any cover or wrapper of, or belonging to, or used with or upon any label affixed to any ream or quantity of paper, or upon any pasteboard, millboard, scaleboard, or glazed paper, counterfeit, forge, or resemble the mark or impression, or any stamp or device provided or directed to be used in pursuance of the 34 Geo. 3. c. 20. or shall have in his custody or possession any such counterfeit stamp or device, knowing the same to be counterfeited; or shall have in his custody, &c., or shall utter, vend, or sell any paper with a counterfeit or forged mark or impression of any such stamp, &c. on the cover or wrapper of such paper, or on any label affixed thereto, or any pasteboard, &c. with a counterfeit or forged mark, &c. of any such stamp, &c. upon such pasteboard, &c. or upon any label affixed thereto, knowing the same to be counterfeited, &c.; or shall, upon any ream or quantity of paper which has not been duly entered with the proper officer, and charged with the duty of excise imposed for or in respect of such paper, knowingly put or place any cover or wrapper having thereon such counterfeit or forged mark, &c. or any such counterfeit label, every such offender shall be adjudged a felon, and be transported for 7 years.

4 Geo. 3. c. 37.
s. 15. Eng.

P. 1100. *l.* 7.—The 4 Geo. 3. c. 37. Eng. enacts (s. 15.) that if any person shall forge or counterfeit the

*Forging seal,
&c. of this cor-
poration, a capi-
tal felony.*

common seal of the corporation to be established in pursuance of this act, (*vide* p. 1021.) or shall forge, counterfeit, or alter any deed, bill, bond, or obligation, under the common seal of the said corporation; or shall offer

offer to dispose of or pay away any such forged, &c. bill, &c. knowing the same to be such; or shall demand any money therein mentioned or pretended to be due thereon, or on any part thereof, of and from the said corporation, or any members, officers, or servants thereof, knowing such bill, &c. to be forged, &c. with intent to defraud the said corporation, or their successors, or any other person, every such offender shall be guilty of felony without benefit of clergy. And by s. 26. if any person shall forge or counterfeit any stamp, mark, or seal, to resemble any stamp, &c. which shall be used in pursuance of this act, or shall forge, resemble, or counterfeit the impression of any such mark, &c. upon any goods required by this act to be stamped, &c. or shall import or bring into England any foreign cambricks or lawns, or goods known by these denominations, having any such counterfeit mark, &c. thereon, or sell or expose to sale any cambricks, &c. with such counterfeit mark, &c. thereon, knowing such stamp, &c. to be counterfeited, such offender shall be guilty of felony without benefit of clergy.

s. 26.

Forging, &c. stamp required by this act a capital felony.

P. 1103. l. 31.—The 49 Geo. 3. c. 83. I. provides, (s. 2.) that no court or judge, or justice of peace, or other officer or person in Ireland, shall receive any person to become surety, or be bound for the appearance of any other person charged with any offence, or that any other person should keep the peace, or be of good behaviour, unless such person so offering to become surety, &c. shall have first made oath before such court, &c. in one of the forms following, or in words of the like import: viz. “ I do swear, that I am a householder, and have a house wherein I usually reside, at ———, in the parish of ———, barony or half barony of ———, and county of ———, and that I support and maintain myself by ———, and that I am worth the sum of ———, (here insert double the sum in which he or she is to be bound) over and above my just debts. So help me God :” And if such person shall reside in a county, county of a city of town, the words “reside at” and from thence to “county of” shall be omitted, and instead thereof these

49 Geo.3. c.83. s. 2. I.

Oath required to be taken by persons entering into recognizances.

words

words shall be inserted: *viz.* “reside in (*naming the street, square, lane, or place*) the parish of ———, “and county of the city or town of ———:” And every such oath shall be annexed to or written on the same piece of paper or parchment with the recognizance, and shall be signed by the person making the same, and attested by the proper *jurat* of the court, &c. taking the same; and shall be sufficient in lieu of all former oaths.

32 Geo. 3. c. 48.
Eng.

*Sessions of
Middlesex.*

P. 1106. *l.* 12.—The 32 Geo. 3. c. 48. Eng. extends the provision of the 25 Geo. 3. c. 18. Eng, to the session of the peace, and session of *oyer* and *terminer* holden before the justices of peace for the county of Middlesex.

27 Hen. 8. c. 4.
Eng.

Marine felonies.

P. 1106. *l.* 27.—It should have been here noted that the 27 Hen. 8. c. 4. Eng. is superseded by the 28 Hen. 8. c. 15. Eng.

11 & 12 W. 3.
c. 7. s. 1. Eng.

*How and when
piracies commit-
ted on the sea
may be tried.*

P. 1108. *l.* 12.—By the 11 & 12 W. 3. c. 7. s. 1. Eng. all piracies, felonies, and robberies, committed upon the sea, or in any haven, river, creek, or place, where the admirals have power or jurisdiction, may be inquired of, &c. in any place at sea, or upon land, in any of his majesty's dominions, forts, or factories, to be appointed by the king's commission under the great seal, or the seal of the admiralty, directed to any of the admirals, vice-admirals, rear-admirals, judges of the vice-admiralties, or commanders of any of his majesty's ships of war, and also to any such persons as his majesty shall appoint; which commissioners shall have power, by warrant under the hand and seal of them, or any of them, to commit to custody any person against whom information of piracy, robbery or felony upon the sea, shall be given upon oath; and call a court of admiralty upon ship-board, or upon land, as occasion shall require; which court shall consist of 7 persons at least. And by s. 2. if so many persons cannot conveniently be assembled, any 3 of them (whereof the president or chief of some English factory, or the governor, lieutenant-governor, or member of his majesty's councils, in any of the plantations, or commander of one of his majesty's ships, is to be one,) shall have power to call any other persons on ship-board, or on the land, to make up the number of 7. Provided (s. 3.) that

s. 2 & 3.

*Who shall
constitute courts.*

that no persons but known merchants, factors, or planters, or captains, lieutenants, or warrant officers, in any of his majesty's ships of war, or captains, masters, or mates of some English ship, shall be capable of sitting and voting in said court. By s. 4. such persons assembled as aforesaid, shall have power, according to the course of the admiralty, to issue warrants for bringing any persons accused of piracy or robbery before them to be tried; and to summon witnesses, and take examination of witnesses, and to do all things necessary for the final determination of any case of piracy, robbery, and felony, and to give sentence of death, and award execution, according to the civil law, and the rules of the admiralty. And every person so convicted and attainted of piracy or robbery, shall suffer such losses of lands and goods, as if they had been attainted, &c. according to the 28 Hen. 8. c. 15. By s. 5. so soon as any court shall be assembled, the king's commission shall be read, and the court shall be proclaimed, and the president of the court shall take the following oath: *viz.* "I *A. B.* do swear, in the presence of Almighty God, that I will truly and impartially try and adjudge the prisoner or prisoners which shall be brought upon his or their trials before this court, and honestly and duly, on my part, put his majesty's commission for trying them in execution, according to the best of my skill and knowledge; and that I have no interest, directly or indirectly, in any ship or goods, for the piratically taking of which any person stands accused, and is now to be tried: So help me God:" And he having taken the oath, shall administer the same to every person who shall sit and have a voice in the court; and thereupon the prisoners shall be brought before them: and then the register shall read the articles against such prisoners, wherein shall be set forth the particular fact of piracy, &c. with the time and place, and in what manner it was committed: and each prisoner shall be asked whether he be guilty or not guilty; whereupon such prisoner shall plead "guilty," or "not guilty," or else it shall be taken as confessed: and if any prisoner shall plead not guilty, witnesses shall be produced by the register, and sworn and examined in the prisoner's

s. 4.

Power of this court.

s. 5.

King's commission read.

Oath of president and other members.

Proceeding upon trial.

*Sentence how
executed.*

s. 6.

*Register of
court to be a
public notary:*

s. 13.

*Commissioners,
&c. shall have
power to try the
crimes in Ame-
rica.*

prisoner's presence ; and after a witness hath answered all the questions proposed by the president, and given his evidence, it shall be lawful for the prisoner to have the witness cross-examined, declaring to the court what questions he would have asked, and the president or the court shall interrogate the witness accordingly ; and every prisoner shall have liberty to bring witnesses for his defence, who shall be sworn and examined, and afterwards the prisoner shall be heard for himself ; which being done, the prisoner shall be taken away, and all other persons, except the register, shall withdraw ; and then the court shall consider of the evidence ; and then the president shall collect the votes of the court, beginning at the junior, and ending with himself, and according to plurality of voices sentence and judgment shall be given, and pronounced publicly in the presence of the prisoner, being called in again ; and according to such sentence, the person attainted shall be put to death, at such time, in such manner and place upon the sea, or within the ebbing and flowing thereof, as the president, or the major part of the court, by warrant directed to a provost marshal (which the president or major part may constitute,) shall appoint. By s. 6. some public notary shall be register of the court ; and in case of his absence, death, or incapacity, or for want of a person so qualified, the president shall appoint a register, giving him an oath, duly, faithfully, and impartially, to execute his office ; which register shall prepare all warrants and articles, and provide all things requisite for any trial, according to the substantial and essential parts of proceedings in a court of admiralty, in the most summary way ; and shall take minutes of the proceedings, and enter them in a book, and shall transmit the same, with the copies of all articles and judgments, into the high court of admiralty in England. By s. 13. the commissioners appointed by the 28 Hen. 8. c. 15. or by this act, shall have the sole power of hearing and determining the said crimes, within all the plantations in America, governed by proprietors, or under charters from the crown ; and shall issue their warrants for apprehending of any pirates, felons, or robbers upon

upon the sea, or their confederates or accessaries, within any of the said plantations, in order to their being brought to trial within the same, or any other plantation in America. or sent into England: and all governors, and persons in authority in the plantations governed by proprietors, or under charters, shall assist the commissioners and their officers, and deliver up any pirates, &c. and their confederates, &c. in order to their being tried or sent into England. And by s. 14. if any of the governors in the plantations, or persons in authority there, shall refuse to yield obedience to this act, such refusal shall be a forfeiture of all charters granted for the government or propriety of such plantation. And by s. 15. when any commission for the trial and punishment of the offences aforesaid, shall be directed to any place within the jurisdiction of the cinque ports, such commission shall be directed to the lord warden, or his lieutenant, and such other persons as the lord chancellor shall name; and every inquisition and trial to be had by virtue of such commission shall be by the inhabitants of the cinque ports, or the members of the same. By the 4 Geo. 1. c. 11. s. 9. Eng. all persons who shall commit any offences for which they ought to be adjudged pirates, by the 11 & 12 W. 3. c. 7. may be tried as by the 28 Hen. 8. c. 15. is appointed, and shall be debarred from the benefit of clergy. The 46 Geo. 3. c. 54. U. K. recites, that treasons, murders, and other felonies and misdemeanors not mentioned in the 11 & 12 W. 3. *supra*, cannot be tried by virtue of any commission directed under that act, but the persons committing the same in places remote, can only be brought to trial under that act, by sending them to England to be tried under the 28 Hen. 8. c. 15. Eng. and therefore provides, that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place, where the admirals have jurisdiction, may be inquired of, &c. according to the common course of the laws of the realm, used for offences committed upon the land, in any of his majesty's islands, plantations, colonies, dominions, forts,

s. 14.

Penalty on governor, &c. of plantations not yielding obedience.

s. 15.

Offences how tried within the cinque ports.

4 Geo. 1. c. 11. s. 9. Eng.

Offenders against 11 & 12 W. 3. c. 7. may be tried under 28 Hen. 8. c. 15.

46 Geo. 3. c. 54. U. K.

Any offences committed upon the sea may be tried by the king's commission in any of his islands, &c.

or

or factories, by virtue of the king's commission, under the great seal of Great Britain, to be directed to such 4 or more discreet persons as the lord chancellor shall appoint; and such commissioners, or any 3 of them, shall have the like powers for the trial of all such murders, &c. and other offences, within such island, &c. as any commissioners appointed according to the directions of the 28. Hen. 8. c. 15. would have for the trial of said offences within the realm; and all persons convicted of any of said offences so to be tried by virtue of any commission to be made according to the directions of this act, shall be subject to all such pains, &c. as, by any law now in force, persons convicted of the same would be liable to if tried by virtue of the 28 Hen. 8. c. 15.

17 Ric. 2. c. 10.
E. & I.

Commissioners
of gaol delivery.

P. 1108. *l.* 35.—The 17 Ric. 2. c. 10. E. & I. provides, that in every commission of the peace, where need shall be, two men of law, of the same county where such commission shall be made, shall be assigned to proceed to the deliverance of thieves and felons abiding in prison.

12 Geo. 2. c. 27.
Eng.

Justices of oyer
and terminer,
&c. may act in
county where
born or inhabit-
ing.

P. 1109. *l.* 3.—The 12 Geo. 2. c. 27 Eng. should have been here stated, which enacts, that it shall be lawful for the chief justice and justices of either bench, and for the chief baron and other barons of the exchequer, and for any other person learned in the law, who shall be appointed justice of *oyer* and *terminer*, or gaol delivery, in any county in England, to exercise such office in such county, notwithstanding they shall have been born or do inhabit within such county; and they shall not be liable to any penalty for so doing, notwithstanding the 8 Ric. 2. c. 2. and 33 Hen. 8. c. 24.

2 Geo. 1. c. 17.
s. 18. Ir.

Keepers of
houses of correc-
tion, &c. to re-
turn calendars
of prisoners to
sessions.

P. 1113. *l.* 9.—The 2 Geo. 1. c. 17. Ir. provides (s. 18.) that the master and keeper of every house of correction, or work-house, at every general quarter sessions of the peace, to be held for the county, &c. wherein such house of correction, &c. is, shall deliver to the justices at said sessions an exact calendar or account of the names of every person in his custody, in writing signed by him, together with the time when, and for what, and by whom committed, upon pain of forfeiting £5. to such person as shall be in his custody, and not returned in calendar,

to

to be recovered before the next going justices of assize and gaol delivery, in a summary way, or at the next quarter sessions in the county of Dublin, by civil bill.

P. 1120. l. 23.—The 3 & 4 Edw. 6. c. 1. Eng. ^{3 & 4 Edw. 6. c. 1. Eng.} amends the 37 Hen. 8. c. 1. Eng. by providing, that the lord chancellor shall, without any bill signed with the king's hand, appoint such persons to be *custos rotulorum* ^{Chancellor may, without bill signed by the king, appoint *custos rotulorum*.} within every shire as shall be thought meet. And the person so appointed may exercise the office by deputy, in as ample a manner as if the 37 Hen. 8. c. 1. had never been made. Provided (s. 5.) that the archbishop of York, ^{s. 5.} the bishop of Durham, the bishop of Ely, the chancellor ^{Proviso.} of the duchy of Lancaster, and all persons to whom the king or his progenitors by letters patent or act of parliament have granted any liberty to ordain any of the said officers of *custos rotulorum*, shall enjoy the same liberty.

P. 1122. last line.—The jury of the court-leet or view ^{18 Edw. 2. E. & I.} of frankpledge are required by the 18 Edw. 2. E. & I. to present upon their oaths: First, if all the suitors that ^{Matters presentable by jury of court-leet.} owe suit to this court be come, and which not: If all the chief pledges be come, as they ought to come, and which not: If all the dozeins be in the assize of the king, and which be not, and who received them: Of customs and services due to this court withdrawn, how and by whom, and in what bailiff's time: Of purprestures made in lands, woods and waters, to annoyance: Of walls, houses, dikes, and hedges set up, or beaten down, to annoyance: Of bounds taken away: Of ways opened or stopped: Of waters turned or stopped: Of breakers of houses and their receivers: [* Of common thieves and their receivers:] ^{* Not in original. Vide Ruffhead's statutes.} Of petty thieves, as of geese, hens, or sheaves of corn: Of thieves that steal clothes through windows or walls: Of such as go in message for thieves: Of hue and cry levied and not pursued: Of bloodshed and of frays: Of escapes of thieves or felons: Of persons outlawed, and returned not having the king's warrant: Of women ravished, not presented before the coroners: Of clippers and forgers of money: Of treasure found: Of the assize of bread and ale broken: Of false measures: Of false balances: Of such as have a double measure, and buy by

by the greater, and sell by the less: Of such as haunt taverns, and no man knoweth whereon they live: Of such as sleep by day, and watch by night, and have nothing: Of cloth-sellers and carriers of leather, dwelling out of market-towns: Of persons imprisoned and let go without warrant: Of such as take doves in winter by door-falls or engines.

1 Hen. 7. c. 4.
E. & I.

*Incontinency of
priests, &c. pu-
nished.*

P. 1128. last line.—By the 1 Hen. 7. c. 4. E. & I. it shall be lawful to all archbishops and bishops, and other ordinaries having episcopal jurisdiction, to punish and chastize such priests, clerks, and religious men, being within the bounds of their jurisdiction, as shall be convicted before them, by examination and other lawful proof requisite by the law of the church, of adultery, fornication, incest, or any other fleshly incontinency, by committing them to ward and prison, there to abide for such time as shall be thought to their discretions convenient for the quality and quantity of their trespass; and that none of the said archbishops, &c. be thereof chargeable of, to, or upon any action of false imprisonment.

*Revenue juris-
diction.*

P. 1129. l. 10 to 18.—The English statutes 7 & 8. W. 3. c. 30. 6 Geo. 1. c. 21. 1 Geo. 2 st. 2. c. 16. 9 Geo. 2. c. 35. and 32 Geo. 2. c. 17. should have been here referred to: And the 49 Geo. 3. c. 116. I. contains several provisions respecting the jurisdiction of the commissioners and sub-commissioners of the revenue of Ireland.

5 Hen. 4. c. 10.
E. & I.

*None to be im-
prisoned but in
common gaol.*

P. 1134. l. 2.—The 5 Hen. 4. c. 10. E. & I. should have been here stated, which enacted that none should be imprisoned by any justice of peace but only in the common gaol, saving to lords, and others which have gaols, their franchises.

26 Geo. 3. c. 45.
s. 3. Ir.

*Magistrates
may commit
persons charged
with crimes to
bridewells.*

P. 1134. l. 23.—The 26 Geo. 3. c. 45. Ir. provides, (s. 3.) that it shall be lawful for the magistrates of the respective counties, &c. to commit any persons charged before them with felony or other crime, to any bridewells built or to be built or repaired as in this act mentioned; and the keepers of such bridewells shall receive such persons so committed to their custody; and such keepers shall be liable to all fines and penalties imposed on gaolers, who shall suffer any person to break gaol or escape. By

s. 4.

s. 4.

s. 4 the sheriffs of the respective counties, &c. shall have the superintendance of such bridewells. And by s. 5. the sheriffs of each county shall take the charge of transmitting to their county gaols, all persons confined in such bridewells, twice at least in every year, or oftener if need shall be, previous to the assizes or general gaol delivery to be held for each county: And by s. 6. the grand juries of said counties shall grant such presentments as shall be necessary to defray the expense of transmitting such prisoners.

*Sheriffs to have the superintend-
ance of bride-
wells.*

s. 5.

*Sheriffs to trans-
mit to county
gaols, persons
confined in such
bridewells.*

s. 6.

*Expense defray-
ed by county.*

P. 1140. *l.* 25.—The 48 Geo. 3. c. 58. G. B. enacts (s. 2.) that all clauses, matters and things in the 13 Geo. 3. c. 31. Eng. and 45 Geo. 3. c. 92. G. B. whereby the execution in Scotland of any warrant issued by any justice of peace in England for any crime or offence against the laws of that part of the united kingdom, shall extend to all warrants issued by any of the justices of the king's bench in England, or of the courts of great sessions in Wales, or by any justice of *oyer and terminer* or gaol delivery, or other person having authority to issue the same in England, for any crime against the laws of England.

48 Geo. 3. c. 58.
s. 2. G. B.

*Escape warrants
issuable by other
persons than
justices of peace.*

P. 1140. *l.* 25.—The 8 Geo. 1. c. 9. Ir. provides (s. 7.) that where any person shall be apprehended in any part of this kingdom, against whom any warrant in writing under the hand and seal of the chief justice or other justice of the king's bench in England, for the apprehending such person for robbery or any other capital crime committed in England, shall have issued, it shall be lawful for the chief governor of Ireland, by writing under his hand, to detain any ship, &c. belonging to any merchant or trader residing or inhabiting in Ireland, lying in the port or harbour of Dublin, and bound for any port or place in England, until the master or person taking charge of such ship, &c. shall take such offender on board his ship, &c. and shall enter into a bond to his majesty before the collector of the port of Dublin of the penalty of £200. conditioned for the safe custody, conveying, and delivery of such offender (the danger of the seas and of enemies excepted) into the hands of the high sheriff, under-
sheriff,

8 Geo. 1. c. 9.
s. 7. Ir.

*Offenders appre-
hended by war-
rant of chief jus-
tice of England,
how transmitted.*

s. 8.

*Master of ship,
how paid.*

sheriff, justice of peace, chief magistrate, or constable, of the county, port, harbour, or place, whither such ship, &c. shall be bound, or first arrive in England. Provided (s. 8.) that no ship, &c. shall be detained in the port, &c. of Dublin, nor the master, or person taking charge thereof, hindered from proceeding on his voyage by virtue of this act, unless a sum not less than 40s. nor exceeding £5. be tendered and paid to such master as a reward for carrying such offender into England, and unless a warrant under the hand and seal of the chief justice, or other justice of the king's bench in England, for the apprehending such offender, be delivered into the hands of such master, &c. together with such offender. And

s. 9.

*Master of ship
not compellable
to take more
than 2 offenders.*

provided (s. 9.) that no master of such ship, &c. shall be compelled to take on board his ship, &c. more than two such offenders at one time. And by s. 10. the collector of the port of Dublin shall deliver up such bond to the

s. 10.

*Bond of master
of ship when to
be delivered up.*

master of such ship, &c. or person taking charge thereof, his executors or administrators, or to any other person who shall deliver unto said collector a writing under the hand of the high-sheriff, under-sheriff, justice of peace, chief magistrate, or constable, to whom such offender shall be delivered in England, with an affidavit at the foot of such writing, of a credible witness, taken before a justice of peace of the county, &c. where such offender shall be delivered in England, or before the chief justice, or other justice of his majesty's court of chief pleas in Ireland, certifying, that the offender mentioned in the condition of such bond, together with the warrant of the chief justice, or other justice of the king's bench in England, for the apprehending of such offender, were duly delivered into the hands of such high sheriff, &c. or one of them.

48 Geo. 3. c. 58.
s. 1. G. B.*Warrant of
judge of K. B.
to apprehend
persons charged
with offences
not being treason
or felony.*

P. 1146. *l.* 32.—By the 48 Geo 3. c. 58. s. 1. G. B. whenever any person shall be charged with any offence for which he may be prosecuted by indictment or information in the king's bench, not being treason or felony, and the same shall be made appear to any judge of the same court by affidavit, or by certificate of an indictment, &c. being filed against such person in said court for such offence, it shall be lawful for such judge to issue his

his warrant under his hand and seal, and thereby to cause such person to be apprehended and brought before him or some other judge of same court, or before a justice of peace, in order to his being bound with 2 sureties, in such sum as in said warrant shall be expressed, with condition to appear in said court at the time mentioned in such warrant, and to answer all indictments, &c. for such offence; and in case any such person shall neglect or refuse to become bound as aforesaid, it shall be lawful for such judge, &c. to commit such person to the common gaol of the county, &c. where the offence shall have been committed, or where he shall have been apprehended, there to remain until he shall become bound as aforesaid, or be discharged by order of court in term time, or of one of the judges of said court in vacation; and the recognizance to be thereupon taken shall be returned and filed in said court, and shall continue in force until such person shall have been acquitted of such offence, or, in case of conviction, shall have received judgment for the same, unless sooner ordered by the court to be discharged; and where any person, by virtue of such warrant of commitment, or by virtue of any writ of *capias ad respondendum* issued out of said court, is or shall be committed to, and detained in any gaol for want of bail, it shall be lawful for the prosecutor of such indictment, &c. to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein such person is detained, with a notice thereon indorsed, that unless such person shall, within 8 days from such delivery of a copy of the indictment as aforesaid, cause an appearance, and also a plea or demurrer to be entered in said court to such indictment, &c. an appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he shall, for the space of 8 days after such delivery of a copy of the indictment, &c. neglect to cause an appearance, and also a plea or demurrer, to be so entered, it shall be lawful for the prosecutor, upon an affidavit being made and filed in said court of the delivery of a copy of such indictment, &c. with such notice indorsed thereon as aforesaid, to such person, or to such gaoler, &c. as the

*Recognizance
required from
such party.*

*Proceeding
where party
committed will
not appear and
plead to indict-
ment.*

the case may be, (which affidavit may be made before any judge or commissioner of said court authorized to take affidavits,) to cause an appearance and the plea of not guilty to be entered in said court to such indictment, &c. for such person; and such proceedings shall be had thereupon, as if the defendant had appeared and pleaded not guilty; and if upon the trial of such indictment, &c. any defendant so committed, &c. shall be acquitted of all the offences therein charged upon him, it shall be lawful for the judge before whom such trial shall be had, although he may not be one of the judges of said court, to order that such defendant shall be forthwith discharged out of custody as to his commitment as aforesaid.

8 Geo. 1. c. 9.
s. 3. Ir.

*Reward for apprehending
murderers or
robbers.*

P. 1161. last line.—The 8 Geo. 1. c. 9. Ir. in analogy to the 6 Geo. 1. c. 23. Eng. provides (s. 3.) that where any murder or robbery shall be committed in the streets of the city of Dublin, or in other counties of cities or towns, or their liberties, or in the highway of any county, a reward not exceeding £20, shall be given to such person as shall apprehend such murderer or robber, so as he shall be convicted; the same to be raised by the presentments of the respective grand juries, and apportioned as other public money, and to be distributed as to the judges, &c. before whom such murderer, &c. shall be convicted, shall seem reasonable, to be certified under their hands.

s. 5.
*If person killed
in apprehending
such offenders,
his executors,
&c. entitled to
reward.*

17 Geo. 2. c. 6.
s. 4. Ir.

*Reward for apprehending and
prosecuting
robbers.*

And by s. 5. in case any person shall be killed in the pursuit or apprehending any of the offenders aforesaid, then the executors, &c. of the person so killed shall be entitled to the sum of £20, to be raised by the presentment of the respective grand juries. And the 17 Geo. 2. c. 6. Ir. provides, (s. 4.) that a sum not exceeding £5, shall be given as a reward to any person who shall apprehend and prosecute to conviction any person guilty of robbery, for which no reward was given by any former law, before the 13 Geo. 2. c. 10. (which is hereby repealed;) which sum shall be raised by presentments of the grand jury at the assizes of the county wherein such robbery shall be committed, as other county charges are raised, or at the quarter sessions for the county of Dublin or county of the city of Dublin, if such robbery shall

shall be committed there. And by s. 5. there shall be paid to every constable, who, by virtue of a *mittimus* under the hand and seal of any justice of peace for treason or felony, shall carry to and safely lodge in the county gaol any person committed to him by such justice, 3*d.* a mile for such person; and the like sum shall be paid to 2 protestants armed with fire-arms, who shall go along with such constable to the county gaol to guard such prisoner; which sums shall be raised by the grand juries of the respective counties; and in case there shall be more prisoners than one to be conveyed to gaol, then the said justice shall appoint as many protestants, with fire-arms to guard such prisoners, as shall be necessary for their safe conveyance to gaol, each of whom shall be entitled to the like sum of 3*d.* to be raised as aforesaid.

s. 5.

*Constables, &c.
how paid for
conveying pri-
soners.*

P. 1167. *l.* 10.—The 6 Ann. c. 6. s. 5. Ir. should have been here referred to, which provides, that no papist shall serve on, or be returned to serve on any grand jury in the king's bench, or before justices of assize, *oyer* and *terminer*, or gaol delivery, or quarter sessions, unless it shall appear to the justices of such courts that a sufficient number of protestants cannot be then had for that service. But this disability amongst others is done away by the 33 Geo. 3. c. 21. s. 1. Ir. (so often referred to) with respect to such Roman catholics as shall take and subscribe the oaths and declaration herein mentioned.

6 Ann. c. 6.
s. 5. Ir.

*Papists not to
be grand jurors,
unless in default
of protestants.*

P. 1171. *l.* 15.—By the 25 Hen. 8. c. 3. s. 3. Eng. if any person be indicted of felony for stealing of any goods or chattels in any county within the realm, and thereupon be found guilty, or stand mute, or challenge peremptorily above 20 persons, or will not upon his arraignment directly answer to the same felony, such person shall lose the benefit of clergy, in like manner as if he had been indicted, &c. in the same county where the same robbery or burglary was committed, if it shall appear to the justices before whom such felon be arraigned, by evidence or by examination, that the same felony had been such robbery, &c. that he should have lost the benefit of clergy by force of the 23 Hen. 8. c. 1. in case he had been found guilty thereof in the same shire

25 Hen. 8. c. 3.
s. 3. Eng.

*Persons tried in
one county for
robbery or bur-
glary committed
in another.*

shire where such robbery, &c. was so committed. And
 5 & 6 Edw. 6. the 5 & 6 Edw. 6. c. 10. Eng. recites, that by the 1
 c. 10. Eng. Edw. 6. c. 12. s. 2. Eng. it was enacted, that in all
 cases of felonies, except as herein excepted, the persons
 found guilty, &c. of the same, should have the benefit
 of clergy, in like manner as they might have done before
 24 April in the first year of king Henry VIII. and this
 statute therefore revives and confirms the 25 Hen. 8.
 c. 3. s. 3. *supra*. And it is a provision of the 3 W. & M.
 c. 9. s. 3. Eng. that if any person be indicted of felony
 for stealing of any goods or chattels, in any county with-
 in [*England, Wales, or Berwick,] and be convicted or
 attainted, or upon his arraignment shall stand mute, or
 will not directly answer to the indictment, or shall chal-
 lenge peremptorily above 20 of the jury, he shall be
 excluded from benefit of clergy, if it appear in evidence
 or upon examination before the justices, that the said
 goods, &c. were taken by robbery or burglary, or in any
 other manner, in any other county, whereof if such person
 had been convicted by a jury of said other county, he
 would be excluded, by this or any other act, from the
 benefit of clergy. And the 9 W. 3. c. 7. Ir. contains
 a similar provision.

51 Geo. 3. c. 100. P. 1184. l. 37.—The 51 Geo. 3. c. 100. G. B.
 s. 1. G. B. recites the 38 Geo. 3. c. 52. Eng. and enacts, that it
 shall be lawful for the court before which any conviction
 shall have taken place in pursuance of the 38 Geo. 3.
 c. 52. to order every such convict to be punished accord-
 ing to law, either within the county where such conviction
 shall have taken place, or within the county of the city
 or town corporate where such offence shall have been
 committed; and in cases where the court shall order
 such convict to be punished within the county of such
 city, &c. it shall be lawful for the court, after passing
 sentence upon such convict, to order him to be delivered
 into the custody of such sheriff, gaoler, or other proper
 officer of the county of such city, &c. and such sheriff,
 &c. shall receive into his custody such convict, and
 execute such sentence upon him, in such adjoining county,
 as if he had been tried, &c. in the county of such city,
 &c.

Revival of 25
Hen. 8. c. 3.

3 W. & M. c. 9.
s. 3. Eng.

Persons tried in
one county for
larceny in ano-
ther.

* Ireland in
9 W. 3. c. 7.
Ir.

9 W. 3. c. 7.
s. 3. Ir.

51 Geo. 3. c. 100.
s. 1. G. B.

Persons convict-
ed in pursuance
of 38 Geo. 3.
c. 52. may be
punished in
county where
tried, or in city,
&c. where of-
fence committed.

&c. And by s. 2. the justices of *oyer and terminer*, or general gaol delivery, at any session thereof holden for such county, shall order all expenses incurred by such county, in relation to any person who shall be tried in such county, or removed thither for trial, for any offence charged to have been committed within the county of such city, &c. as well in maintaining such person, and carrying the sentence into execution, as in every other respect, to be repaid to the treasurer of such county, or other person acting as such, or who shall have actually paid such expenses, by the same persons, and in the same manner, as the same would have been payable if such offender had remained and been tried, and the sentence executed, within the county of such city, &c.

Treasurer of such county to be repaid the expenses.

P. 1187. l. 5.—That proceedings to outlawries in criminal cases may be as public as in civil causes; the 4 & 5 W. & M. c. 22. Eng. provides, (s. 4.) that upon the issuing of any *exigent* for any criminal matter, before judgment or conviction, there shall also issue a writ of proclamation, bearing the same *teste* and return, to the sheriff of the county, &c. where the person in the record is mentioned to be, according to the 31 Eliz. c. 3. (*ante* p. 193); which writ shall be delivered to the sheriff 3 months before the return of the same.

4 & 5 W. & M. c. 22. s. 4. Eng.

Upon issuing any exigent, a writ of proclamation also to issue.

P. 1190. l. 2.—By the 18 Edw. 3. st. 1. E. & I. of receivers of the king's money, who the same retain; also of conspirators, confederators, and maintainers of false quarrels; also of them that bring routs into the presence of justices, or other the king's ministers, or elsewhere in counties, in affray of the people; and of them which bring in false money in deceit of the people; against all those in case they may not be found, nor brought in to answer by attachment or distress, the *exigent* shall be given. And by the 18 Edw. 3. st. 2. c. 5. E. & I. no *exigent* shall go where a man is indicted of trespass, if it be not against the peace, or of things contained in the last parliament. The 33 Hen. 6. c. 1. Ir. enacts that every *exigent* for the king, of felonies or treasons to be awarded, shall be void, if not that it be in the bench of the king, and if it be within li-

18 Edw. 3 st. 1. E. & I.

Process of exigent in what cases to issue.

18 Edw. 3 st. 2. c. 5. E. & I.

33 Hen. 6. c. 1. Ir.

Exigents to issue from king's bench.

berties

berties for lords, then it shall be before their judges of their places, and not before commissioners.

5 Edw. 3. c. 11.
E. & I.

*Justices of oyer
and terminer
may direct ca-
pias to any coun-
ty against per-
son indicted.*

P. 1192. l. 14.—By the 5 Edw. 3. c. 11. E. & I. whereas persons appealed or indicted of divers felonies in one county, or outlawed in the same county, are dwelling or received in another county, whereby such persons evaded justice because they could not be attached in such other county; it is hereby enacted that the justices assigned to hear and determine such felonies, shall direct their writs to all the counties of England, where need shall be, to take such persons indicted.

39 & 40 Geo. 3.
c. 94. s. 2. Eng.

*Persons found
insane upon ar-
raignment, &c.
how disposed of.*

P. 1197. l. 24.—The following clauses of the 39 & 40 Geo. 3. c. 94. Eng. should have been here stated. By s. 2. of this act, if any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully impanelled for that purpose, so that such person cannot be tried, or if upon the trial of such person he shall appear to the jury to be insane, it shall be lawful for the court to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until his majesty's pleasure shall be known; and if any person charged with any offence shall be brought before any court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such court to order a jury to be impanelled to try the sanity of such person; and if such jury shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place, and in such manner, as to such court shall seem fit, until his majesty's pleasure shall be known; and in all cases of insanity so found, it shall be lawful for his majesty to give such order for the safe custody of such person, in such place, and in such manner, as to his majesty shall seem fit. And by s. 1. in all cases where it shall be given in evidence upon the trial of any person charged with treason, murder, or felony, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the jury shall be required to find specially whether such person was insane at the time of the com-
mission

s. 1.

*Persons acquit-
ted on the ground
of insanity, how
dealt with.*

mission of such offence, and to declare whether such person was acquitted by them on account of such insanity; and if they shall find that such person was insane at the time of committing such offence, the court before whom such trial shall be had, shall order such person to be kept in strict custody, in such place, and in such manner, as to the court shall seem fit, until his majesty's pleasure shall be known; and it shall thereupon be lawful for his majesty to give such order for the safe custody of such person, during his pleasure, in such place, and in such manner, as to his majesty shall seem fit; and so in cases of persons acquitted on the ground of insanity before the passing of this act, (28 July, 1810.)

P. 1205. l. 35.—The 3 Geo. 2. c. 25. Eng. provides, ^{3 Geo. 2. c. 25. s. 20. Eng.} (s. 20.) that returning officers shall not impanel any person to serve on any jury, for the trial of any capital offence, who, at the time of the return, would not be qualified in the county, city or place, to serve as a juror in civil causes; and such matter shall be cause of a principal challenge, and the person challenged may be examined on oath of the truth of the matter. By s. 21. this act shall be read, once in every year, at the quarter sessions. ^{None to be returned as jurors in criminal cases who are not qualified to serve in civil cases. s. 21. Act proclaimed.}

P. 1206. l. 14.—By the 20 Hen. 6. c. 9. E. & I. ladies of peers, married or sole, being indicted of treason or felony by them done, shall be put to answer and judged before such judges and peers of the realm, as peers should be if they were indicted. The 15 & 16 Geo. 3. c. 29. Ir. enacts, that upon the trial of any peer or peeress for any treason, the overt act whereof shall consist in compassing the death of the king, or in levying war against the king, or in adhering to the king's enemies, or otherwise acting against the person or title of his majesty, or for misprision of such treason, all the peers who have a right to sit and vote in parliament, shall be duly summoned, 20 days at least before such trial, to appear at such trial; and every peer so summoned and appearing, shall vote on the trial of such peer or peeress, every such peer first taking the oaths (of allegiance and supremacy) in the [*1 W. & M. st. 1. c. 8. Eng. and the declaration (against popery) in the 30 Car. 2. st. 2. Eng.] ^{20 Hen. 6. c. 9. E. & I. Peeresses tried as peers. 15 & 16 Geo. 3. c. 29. Ir. All peers of parliament to be summoned for trial of peers. * These are not referred to in this act as English statutes.}

4 Geo. 3. c. 10.
Eng.

Barons of the
exchequer may
discharge for-
feited recogni-
zances.

38 Geo. 3. c. 50.
s. 29. Ir.

Commissioners
of reductions
in Ireland may
remit fines, &c.

s. 31.

(49 Geo. 3.
c. 83. 1.)

Court of exche-
quer or judges of
assize may dis-
charge persons
from custody
upon forfeited
recognizances.

† By 49 Geo. 3.
. 83. 1.

49 Geo. 3. c. 83.
s. 4. 1.

Court to inquire
into the circum-
stances under
which the recog-
nizances were
forfeited.

P. 1212. *l.* 14.—The 4 Geo. 3. c. 10. Eng. provides, that it shall be lawful for the barons of the exchequer, upon affidavit and petition to be presented to them by or on the behalf of persons imprisoned on the forfeiture of any recognizance, (for not appearing as parties or witnesses in the courts of record at Westminster, or other courts of record in England, or at the assizes and quarter sessions, or for not prosecuting indictments there,) to discharge such persons, without any *quietus* to be sued for that purpose; for which order no more than £1. 1s. shall be taken by the officer appointed to give out the same; provided that no discharge shall be given on such petitions where any debt is due to the crown, other than by the recognizances so prayed to be discharged; nor in any case of defrauding his majesty's revenue by contraband trade, or assaulting officers of customs or excise in the execution of their duty, or any person lawfully assisting them. The 38 Geo. 3. c. 50. Ir. provides, (s. 29.) that it shall be lawful for every person who shall forfeit any recognizance, or incur any fine, or against whom estreats shall issue, and who shall be aggrieved thereby, to go before the commissioners of reductions, who may examine into the circumstances in a summary manner, and remit the whole or any part, as they shall think fit. And by s. 31. as amended by the 49 Geo. 3. c. 83. I.* it shall be lawful for the court of exchequer, or the judges of assize, on the petition of any person in custody of any sheriff for non-payment of any sum due on any fine or recognizance, by either a surety or a principal, to examine into the facts in a summary manner, and, if they shall see sufficient reason, to grant an order or warrant, under their hands, to discharge any person so in custody: [† Provided that the petitioner shall not be discharged on the ground of poverty, but on the payment of such proportion of the sum as he shall appear, on examining into such petition, to have the power to pay.] And by the 49 Geo. 3. c. 83. s. 4. I. in any case in which such petitioner shall have been fined, or shall have been the

* This act (s. 1.) discharges all recognizances forfeited, or fines imposed, before 1 July, 1803.

principal

principal in any recognizance on which he shall be so in custody, such court or judge shall so inquire into the nature of the offence for which such fine shall have been imposed, or of the charge in consequence of which such recognizance shall have been entered into, and under what circumstances the same was forfeited; and in case such petitioner shall be so in custody under any recognizance to answer or appear to any charge, and shall, after the forfeiture of such recognizance, have been tried and acquitted, such court or judge shall inquire whether, on such trial, all the witnesses for the prosecution attended and were examined, and if not, whether by the forfeiture of such recognizance, the attendance of any such witness was prevented; and if such petitioner shall be a surety, then such court, &c. shall inquire whether such surety used due diligence to make the principal amenable to law; and in all such cases the court, or judges or judge of assize, may order the discharge of such petitioner, either generally, or after such length of time as they shall think fit, having respect to the circumstances of the case, and to the length of time that such petitioner shall have been in custody previous to such order, and to the object of this and the other acts relating thereto. By s. 5. the provisions of the 38 Geo. 3. c. 50. 39 Geo. 3. c. 67. and 40 Geo. 3. c. 30. are extended to this act.

P. 1213. l. 11.—The 49 Geo. 3. c. 101. I. regulates ^{49 Geo. 3. c. 101.} the fees payable by persons charged with treason, felony, ^{s. 1. I.} and all other offences, at assizes and quarter sessions in ^{*Fees in criminal cases regulated.*} Ireland, &c.; and (by s. 2.) provides, that if any clerk ^{s. 2.} of the crown, clerk of the peace, or any of their deputies, sheriff or under-sheriff, gaoler or under-gaoler, or ^{*Penalty for ex-acting more.*} turnkey, or crier at assizes or sessions, or other person acting under them, shall demand, take, or accept any other or higher fee than the sum stated in the schedule herein contained, for any matter therein or relating thereto, every such offender shall forfeit £10, to be recovered by action of debt, &c. in any court of record in Dublin, or by civil bill, to be heard by the assistant barristers at the sessions of the respective counties. By s. 3. ^{s. 3.} it shall be lawful for the several grand juries at each

Clerks of the crown, &c. how recompensed for their accustomed fees of prisoners acquitted, &c.

s. 4.

Proviso.

assizes, to present for the several clerks of the crown and clerks of the peace, or their deputies, sheriffs, or undersheriffs, gaolers and criers, in lieu of the fees of such persons as shall be indicted, tried, acquitted and discharged without fees, at or between each assizes, any sum they shall think reasonable, in lieu of such fees as they have been accustomed to receive, not exceeding such amount as shall be ascertained according to the rates in this act allowed, by the affidavit of such clerk of the crown, &c. the same to be sworn before the respective judges of assize; and which presentments the several judges shall order to be filed. Provided (s. 4.) that where any prisoner shall be acquitted on account of or by reason of any informality, error, or defect in any indictment whereon any prisoner shall be tried, no fee shall be paid to or presented by the grand jury for such clerk of the crown, &c. who shall have prepared such informal or erroneous indictment, on account thereof, or of any prisoner that shall be discharged therefrom, provided that the judge of assize, chairman, or assistant barrister, shall certify that such acquittal was occasioned by informality, want of form, or other defect in the indictment.

5 Ann. c. 6.
s. 2. Eng.

Convicts of larceny how punished.

s. 3.

Persons escaping from house of correction how punished.

P. 1220. l. 17.—By the 5 Ann. c. 6. Eng. where any person shall be convicted of theft or larceny, such person shall be burned in the hand as formerly, and the judges before whom the offender is tried, shall, at their discretion, award such offender to the house of correction or work-house, there to be kept not less than 6 months, and not exceeding 2 years, from the conviction; an entry whereof shall be made of record; and in case such person refuse to work, the keeper of such house shall give him due correction. And by s. 3. in case such offender shall, after such judgment given, escape out of prison, or out of such house of correction or public work-house, and be re-taken, he shall be brought before one of the judges, or 2 justices of peace (one of them of the *quorum*) of the county, &c. where he shall be re-taken, who shall commit him to the house of correction or work-house within such county, &c. where he shall be retaken, there

to

to remain not less than 12 months, nor exceeding 4 years, from the retaking, and there to be set at work, and receive due correction, as aforesaid; and if the keeper of any house of correction, &c. shall neglect his duty as above directed, any judge of assize or gaol delivery, upon complaint and proof upon oath, may remove the keeper from such office.

P. 1232. *l.* 27.—After the word “law” should be added “since the 24th day of May, 1798.”

P. 1235. *l.* 24.—The 51 Geo. 3. c. 63. I. repeals the 17 & 18 Geo. 3. c. 9. Ir. and enacts, that where any person shall, at any session of *oyer* and *terminer*, or gaol delivery, or at any quarter or other general sessions of the peace for any county, &c. in Ireland, be convicted of any crime for which he shall be liable to transportation, it shall be lawful for the court before which such offender shall be convicted, or any court held for the same place, and with like authority, if such court shall think fit, to order that such person shall be sent to some house of correction or penitentiary within said county, &c. there to be kept to hard labour for such time or number of years as such court shall appoint, not exceeding 7 years; Provided that the court before which any offender shall be so convicted, may order him to be whipped, or imprisoned for any time less than a year, or to suffer such other corporal punishment as may be inflicted on such offenders by law. This statute contains also clauses (*s.* 3 to 9.) similar to those of the 17 & 18 Geo. 3. c. 9. *s.* 4, 14, 15, 16, 17, and 18. which are stated in pages 1236, 7, 8, save that the 17 & 18 Geo. 3. respects hard labour in the river Liffey or harbour of Dublin, whereas the 51 Geo. 3. respects only hard labour in the houses of correction or penitentiaries, to which such offenders shall be ordered. [*This statute (*s.* 11.) empowers the lord lieutenant, upon the recommendation of the court to which such returns shall be made as hereby directed, to shorten the duration of the offender's term in consideration of his good behaviour.] And by *s.* 15. the lord lieutenant may order such offenders to be removed from one house of correction, &c. to another.

51 Geo. 3. c. 63. I.

Persons liable to transportation may be sent to houses of correction or penitentiary houses for 7 years.

Substitution of other punishment also.

s. 3 to 9.

s. 11 & 15.

Lord lieutenant may shorten time or alter place of imprisonment.

* This clause appears to be incorrectly printed.

P. 1243.

17 Edw. 2. st. 1.
c. 14. E. & I.

*Escheats of
lands of bishops'
freeholders.*

Stat. de catall.
felon. incert.
temp.

*Chattels of fe-
lons, &c. after
conviction how
disposed of.*

4 & 5 W. & M.
c. 22. s. 1. Eng.

*Grantees of fe-
lons' goods, &c.
when discharged
from pleading
such grants to
inquisitions.*

s. 2.

*Penalty upon
clerk of the
crown issuing
process after
grant inrolled.*

P. 1243. l. 32.—By the 17 Edw. 2. st. 1. c. 14. E. & I. the king shall have escheats of lands of the freeholders of archbishops and bishops, when such tenants be attainted of felony in time of vacation, whilst their temporalities were in the king's hands, to give at his pleasure, saving to such prelates their accustomed services.

By *stat. de catall. felon. incert. temp.* no man taken for the death of a man, or for other felony, shall be dis-seised of his lands or chattels, until he be convict; but as soon as he is taken, his tenements and chattels shall be viewed, and scheduled by the view of the keeper of the pleas of the crown, and by the view of the sheriff and of lawful men; and shall be safely kept by bail of the prisoner, who shall give security to answer to the justices of the chattels or the prices, if they be demanded. Saving to the prisoner and his family, their necessities while he is in prison, and his reasonable estover; so that when he is convict, the residue of his chattels shall remain to the king, with a term of one year and a day in his lands; and if he can defend himself of the felony, his chattels shall remain to him.

P. 1244. l. 9.—By the 4 & 5 W. & M. c. 22. Eng. no corporation, lords of manors, or others having grants by charter, or other good conveyances, who have inrolled and had the same allowed by the king's bench, shall be compelled to plead the same to any inquisition returned by any coroner; and corporations, &c. who shall have grants, &c. from the crown for felons' goods, deodands, and other forfeitures, shall not be compelled to inrol their whole charters, but the clerk of the crown of said court shall inrol so much thereof as may express the grants of such felons' goods, &c. for doing whereof he shall have 20s. for his fee; and after such inrolment, no corporation, lord of manor, or others, grantees of such goods or forfeitures, shall be compelled to plead the same, in the said court, to any inquisition. And by s. 2. if any clerk of the crown of said court shall issue process against any corporation, &c. grantees of such felons' goods, &c. after inrolment, &c. he shall forfeit to such corporation, &c. £5. to be recovered by bill, plaint, or information, in any

court

court of record at Westminster. But by s. 3. the clerk of the crown shall not incur any penalty for issuing process against any person who shall not, upon every purchase of the title of such felons' goods, and deodands, inrol and plead the same purchase in the said court, nor against any devisee of the like estate who shall not inrol or plead such devise, nor against any heir who shall not inrol his right by descent, and until after such pleas have been allowed of by the court, nor where by inquest of any coroner, the goods of any felon, or deodands, shall not be found to be in the hands of such purchaser, devisee, or heir, or their officers in trust for them.

s. 3.

Clerk of the crown not punishable for issuing process against heirs, &c

P. 1244. l. 9. The 3 Edw. 2. c. 4. Ir. provides, that if any man infeoff another with intent to enter into rebellion, or to commit any other felony, and after the felony is committed to have again his said land, such feoffment shall be held for none, but presently after the felony committed the king shall have the year and the waste of the same tenements; and after the chief lord shall have the same as his escheat, so that the truth of the matter, and the manner of the feoffment, be first inquired by writ out of chancery.

3 Edw. 2. c. 4. Ir.

Feoffments to defeat the right of the crown to forfeitures, void.

APPENDIX.

VOL. I. p. 186. l. 31.—The 1 Ann. st. 1. c. 31 & 32. Eng. 5. Ann. c. 25. Eng. and 6 Ann. c. 34. Eng. should have been here referred to as acts of the English parliament which related to the forfeited estates in Ireland.

English statutes respecting Irish forfeitures.

P. 299. last line.—It was omitted to state here the clause of the 31 Geo. 3. c. 32. Eng. which provides, that this act shall not extend to Scotland.

31 Geo. 3. c. 32. s. 23. Eng.

52 Hen. 3. c. 28.
E. & I.

*Remedies for
successors of
prelates for
wrongs done
to their prede-
cessors.*

VOL. II. p. 127. l. 32.—The 52 Hen. 3. c. 28. E. & I. provides, that if any wrongs be done to any prelates of the church, and they have sued for such wrongs, but have died before the judgment, their successors shall have actions to demand the goods of the church out of the hands of such trespassers: And, moreover, the successors shall have like actions for such trespasses, though their predecessors did not sue during their lives. And if any intrude into the lands or tenements of such religious persons in the time of vacation, of which lands their predecessors died seised as in right of their church, the successors shall have a writ to recover their seisin; and damages shall be awarded them as in assize of *novel disseisin* is wont to be.

9 Hen. 6. c. 11.
E. & I.

*Proclama-
tions required
before writs
awarded to bi-
shops to certify
bastardy.*

P. 231. l. 18.—The 9 Hen. 6. c. 11. E. & I. should have been here referred to, which statute provides, that where any plea shall be depending in which bastardy shall be alleged against any person, party to the same plea, and thereupon an issue joined, which by law is to be certified by the ordinary, the judges, where the said plea shall be depending, before any writ of certificate pass out of the same court to the ordinary, shall make a remembrance under seal, at the suit of the demandant or tenant, plaintiff or defendant, reciting the issue joined, and shall certify the same to the chancellor of England, to the intent that proclamation be made in chancery by 3 months, once in every month, that all persons pretending any interest to object against the party, which pretendeth himself to be *mulier*, be before the ordinary, to make their allegations and objections, as the law of the holy church requireth. And the chancellor having notice of the said remembrance and issue joined, and being required by the demandant or tenant, plaintiff or defendant, having the said remembrance, to make the said proclamation, shall cause proclamation to be made in form aforesaid, and shall certify the proclamation so made into the court where the plea shall be depending. And the judges of that court shall one time before any proclamation made in chancery, make such a proclamation openly in the same court, and also another time
when

when the proclamation shall be certified by the chancellor as aforesaid: And then the judge shall award the writ of certificate to the ordinary, to certify upon the issue so joined. And if the writ of certificate be granted before all the proclamations in form aforesaid be made and certified, the said writ of certificate, and the certificate of the ordinary thereupon, shall be void.

P. 601. l. 7.—The 20 Edw. 3. c. 4. E. & I. enacts, that no prelates, earls, barons, nor others great or small, shall take in hand quarrels other than their own, nor the same maintain by themselves or by others, privily nor apertly, for gift, promise, friendship, favour, doubt, nor fear, nor for any other cause; but that every man may be free to sue for and defend his right in the king's courts, and elsewhere, according to law. And by the 20 Edw. 3. c. 5. E. & I. all lords or great men are required to dismiss from their retinue all bearers and maintainers of quarrels and parties in the country.

20 Edw. 3. c. 4.
E & I.

*Maintenance
prohibited.*

20 Edw. 3. c. 5.
E. & I.

P. 748. l. 36. The 42 Geo. 3. c. 38. G. B. prohibits the use of any noxious or unwholesome ingredients in the making or brewing of any beer, or ale, upon pain of forfeiting such beer, &c. and the vessels in which the same shall be contained, and upon pain also of forfeiting £200. And the 49 Geo. 3. c. 57. I. contains a clause nearly similar; but this latter statute extends to porter and small beer, and the penalty for using any such deleterious ingredients, or selling or delivering them, is but £100.

42 Geo. 3. c. 38.
G. B.

*Adulterating
beer, &c. pro-
hibited.*

49 Geo. 3. c. 57.
I.

P. 1148. line first.—The 5 Edw. 3. c. 14. E. & I. recites that divers manslaughter, felonies, and robberies, had been committed in times past by roberdsmen, wastors, and draw-latches; and enacts, that if any have suspicion of such, be it by day or night, they shall be arrested by the constables of the towns; and if they be arrested within franchises, they shall be delivered to the bailiffs of such franchises, and if in guildable, they shall be delivered to the sheriffs, and be kept in prison till the coming of the justices assigned to deliver the gaols: and in the mean time the sheriffs or bailiffs shall inquire of such arrests, and at the coming of the justices return their inquests before them, and the findings thereon, and

5 Edw. 3. c. 14.
E & I.

*Night walkers
and suspected
persons how
dealt with.*

the cause of the takings, with the bodies ; and the justices shall proceed to the deliverance of such persons. And in case the sheriffs or bailiffs shall not have inquired of such arrests, they shall be amerced, but nevertheless the justices shall inquire and deliverance make as aforesaid.

ERRATA.

VOLUME I.

Page. Line.

- 9, 15, of preface, in some impressions it is Hen. II. instead of Hen. III.
 22, 39, of the work, *for* "freehold" *read* "freeholds."
 34, 18, the words from the asterisk in the 18th line, to the word "thereof" in the 21st line, to which the bottom note refers, should be placed within crotchets.
 66, 8, *for* 'qualification' *read* 'qualifications.'
 70, 13, after the word 'act' *add* as also of the 13 Geo. 2. c. 18. s. 10. Eng.
 76, 5, the following side note omitted : * Elections in cities within 20 days after receipt of writ, and 10 days notice of elections required.'
 83, 17, the following side note omitted 'Oath by 20l. and 50l. freeholders as to freeholds being set, or not, to persons under whom held, &c.'
 124, 4, side note omitted, s. 24. 'Costs rateably paid.'
 146, 30, side note omitted, 37 Geo. 3. c. 127. s. 3. Eng. 'Meeting of parliament in case of demise of king before day appointed for assembly of new parliament.'
 159, 17, *dele* s. 6. in side note.
 187, 1, in side note *for* 33 Geo. 3. c. 49. *read* 33 Geo. 3. c. 46.
 192, 21, after the word 'imported' *add* 'or carried coastwise.'
 193, 23, *for* 46 Geo. 3. c. 59. *read* 46 Geo. 3. c. 79.
 237, 21, *for* 'he' *read* 'they.'
 250, 39, *for* 27 Geo. 2. c. 26. side note, *read* 27 Geo. 2. c. 16.
 255, 10, *for* 'constable' *read* 'constables.'
 256, 33, *for* the 26 Geo. 3. c. 107. Eng. *read* 42 Geo. 3. c. 90. E.
 264, after the word 'feet' in the side notes, *add* '&c.'
 272, 28, *for* 21 Geo. 2. c. 16. in text and margin, *read* 23 Geo. 2. c. 16.
 293, 33, *for* the word 'should' *read* 'shall.'
 297, 26, *for* 22 Geo. 2. c. 47. *read* 22 Geo. 2. c. 46.
 316, 6, *for* 25 Edw. 3. st. 5. c. 22. *read* 25 Edw. 3. st. 6.
 317, 8, *for* 25 Edw. 3. st. 5. c. 22. *read* 25 Edw. 3. st. 6.
 345, 36, *for* 'their lands' *read* 'his lands.'
 365, 6 and 24, in side note *for* 33 Geo. 2. c. 22. *read* 33 Geo. 3. c. 22.
 379, 6, *for* 31 Car. 2. *read* 31 Car. 2. c. 1. s. 54.
 392, 18, the words within crotchets should be transposed to line 5 after the word 'inhabit'
 401, 1, should begin with the word 'as.'
 402, 19, in side note *for* 2 & 3 Edw. 6. c. 20. *read* 2 & 3 Edw. 6. c. 23.
 413, 3, from bottom *for* 11 & 12 W. 3. c. 5. *read* 11 & 12 W. 3. c. 4.
 428, 33, the asterisk refers to the note at the bottom of page 429
 456, 19, *for* 'persons' *read* 'person.'
 464, 4, *for* 51 Hen. 3. st. 1. in text and margin, *read* 21 Hen. 3.
 502, 14, after the word 'taking' *add* 'or disposing of.'
 534, 11, *for* 15 Geo. 2. c. 6. in text and margin, *read* 15 Geo. 2. c. 5.
 543, 30, *for* 8 Geo. 1. c. 5. *read* 8 Geo. 1. c. 25.
 566, 10, *for* 'act of settlement' *read* 'act of explanation.'
 573, 1, in side note, *for* 32 Hen. 8. c. 28. s. 8. *read* 32 Hen. 8. c. 28. s. 6. And in line 26, *for* 32 Hen. 8. c. 26. *read* 32 Hen. 8. c. 28.
 589, bottom note, *for* 17 Geo. 3. c. 58. *read* 17 Geo. 3. c. 57.
 621, 16, before the word 'notes' insert 'bonds.'

VOLUME II.

PART I.

Page. Line.

- 11, 8, from bottom, for 10 & 11 Car. 1. c. 10. read 10 & 11 Car. 1. c. 18.
 27, for 13 & 14 Geo. 3. c. 13. in side note, read 13 & 14 Geo. 3. c. 23.
 38, 19, inside note for 12 Edw. 1. read 13 Edw. 1.
 64, 1, for 'courts' in side note, read 'counties.'
 77, 27, for 'persons' read 'person.'
 89, 17, for 5 Eliz. 1. c. 23. in side note, read 5 Eliz. c. 23.
 93, 25, for 'proclamation' read 'prohibition.'
 123, 11 & 12, for 'this statute' read 'the 8 Hen. 6. c. 9.'
 131, 24, for 10 Car. 1. st. 2. c. 6. s. 13. read 10 Car. 1. st. 2. c. 6. s. 5. and in the note to line 29 for 10 Car. 1. st. 2. c. 6. s. 13. read 10 Car. 1. st. 2. c. 6. s. 5 & 13.
 144, 1 & 2, the words 'as' and 'is' should be transposed.
 149, 16, There should be a dagger † after the crotchet.
 165, 9, for 'Post p. 468,' in side note, read 'Post p. 168.'
 166, 16, the crotchet after the word 'traverse' should follow the word 'offices' in the 8th line.
 183, 15, instead of the asterisk * should be a dagger †.
 205, 21, *dele* the word 'as' after the word 'well.'
 224, 18, for 'limitation' and 'seaman's' read 'limitation' and 'seamens.'
 251, 31, in side note for 10 Car. 1. st. 2. c. 12. read 10 Car. 1. st. 2. c. 13.
 257, 26, in side note, for 'ante p. 233' read 'ante p. 235.'
 260, 19, in side note, for 5 Eliz. c. 9. s. 13. read 5 Eliz. c. 9. s. 12.
 269, 8, for 'ante p. 159' read 'ante p. 129.'
 271, 16, in side note, after the word actions, add 'where plaintiff might.'
 285, 12, the marginal reference to 13 Car. 2. st. 2. c. 2. s. 6. Eng. is omitted. And in line 31 for 'Provided (s. 2.) this,' read 'Provided (s. 2.) that.'
 286, 4, for s. 25, read s. 24.
 289, 34, in side note, for 9 W. 3. c. 18. s. 1. read 9 W. 3. c. 13. s. 5.
 299, in the first bottom note, for 37 Geo. 3. c. 86, read 37 Geo. 3. c. 85.
 318, 27, for 'person' read 'persons.'
 355, 11, *dele* 'they' and in 4th line from bottom for 'defendant' read 'defendants.'
 383, 14, for 15 Car. 2. c. 7. in text and margin, read, 15 Car. 2. c. 6.
 384, 25 & 26, for 'instructing' read 'shall instruct.'
 388, in the second side note from bottom for 'meeting-doors' read 'meeting-houses.'
 389, 25, in side note, for 8 Geo. 1. c. 6. s. 13. read 8 Geo. 1. c. 6. s. 1.
 410, 23, last word, for 'he' read 'they.'
 412, 2 & 3, after the word 'disabled' add 'person.'
 414, 22, for the word 'they' read 'these.'
 449, 28, for the asterisk (*) here, and in the last bottom note, should be substituted a dagger (†)
 465, 34, for 4 Geo. 1. c. 11. s. 9. read 4 Geo. 1. c. 11. s. 7.
 467, last line, for 'person' read 'persons.'
 476, the figure § called a section, should precede the 2nd bottom note.
 478, 13 & 14, after the word 'committed' should be a dagger † referring to the bottom note. And add 'p. 490' to the bottom note.
 509, 33, in side note for 'customs' read 'customer.'
 519, 6, for 'receivers' read 'a receiver.'
 532, 14, for 1 Edw. 4. c. 3. in side note read 7 Edw. 4. c. 3.
 533, 6, for 'persons their' read 'person his.'
 534, 19, for 'person' read 'persons.'
 538, second line from bottom, for 'is' read 'are.'
 541, 20, for 'persons' read 'person.'
 542, 22, in side note, for 'abatement' read 'abetment.'
 543, in first side note, for 13 Eliz. c. 23. read 13 Eliz. c. 2.
 556, in the last side note, for 31 Geo. 3. c. 32. s. 1. read 31 Geo. 3. c. 32. s. 20.
 562, 2, for 'court or' read 'or court.'
 564, 2, for 'him to' read 'him or'
 569, a dagger † instead of an asterisk * should precede the last bottom note.
 579, 1, *dele* the words 'the said offences of'
 603, 17, in side note, for 10 Hen. 7. c. 2. read 10 Hen. 7. c. 20.
 607, 20 & 21, *dele* the words 'such offender.'

Page. Line.

- 619, 19, *after* the word chapel should be a dagger †, and a bottom note, viz. 'For the celebration of divine service according to the usage of the church of Ireland,' here added in 27 Geo. 3. c. 15. Ir.
- 655, 12, in side note, *for* 13 Car. 1. st. 1. *read* 13 Car. 2. st. 2.
- 709, 28, *for* 'him' *read* 'them.'
- 710, 18, *for* 'justice' *read* 'justices.'
- 749, in first side note, *for* 26 Geo. 3. c. 23. *read* 26 Geo. 2. c. 23.
- 759, 5th line from bottom, *after* the word 'party' *add* 'or parties.'
- 773, 6, *for* 'rewards' *read* 'reward.'
- 786, 12, *for* 'person' *read* 'persons.'
- 798, 14, in side note, *for* 10 W. 3. c. 17. *read* 10 W. 3. c. 11.
- 799, 30, in side note should be 9 Ann. c. 14. Eng.
- 804, an asterisk * should precede the first side note; and there should be a dagger † in line 30 referring to the bottom note.
- 806, 16, substitute an asterisk * for the dagger †, and substitute a dagger † for the asterisk * in line 35, and in bottom note.
- 807, 21, in side note, *for* 13 Geo. 2. c. 19. s. 9. Ir. *read* 13 Geo. 2. c. 19. s. 9. Eng.
- 820, 5, *for* 807-8, *read* 807-9
- 838, in bottom note *for* 'ante p. 773' *read* 'ante p. 771.'
- 842, 32, in side note, *for* 'suitor' *read* 'offender.'
- 849, in 7th line from bottom, *for* 773, *read* 771.
- 856, last line but one from bottom, *for* 773 *read* 771.
- 865, 35, in side note, *for* 846 *read* 864.
- 898, 26, in side note, *for* 31 Geo. 2. c. 13. s. 19. *read* 31 Geo. 2. c. 13. s. 10.

VOLUME II.

PART II.

- 907, 8, *for* 25 Geo. 2. c. 37. Ir. *read* 25 Geo. 2. c. 37. Eng.
- 920, in the first side note, *for* 48 Geo. 3. c. 58 *read* 43 Geo. 3. c. 53. And to the bottom note should be prefixed a double dagger ‡
- 921, 22, *for* 'being' *read* 'be.'
- 924, 5, *for* 23 Hen. 8. *read* 33 Hen. 8.
- 941, in first side note *for* 15 Car. 1. st. 2. *read* 10 Car. 1. st. 2.
- 982, in third line of bottom note, *for* 'but' *read* 'not.'
- 995, 7, *dele* the words in the parenthesis.
- 998, in side note to line 22 *for* 17 Geo. 2. c. 6. s. 5. *read* 17 Geo. 2. c. 6. s. 1.
- 1002, 28, *before* the word 'shall' *insert* 'he.'
- 1010, in the last side note, *for* 29 Geo. 2. c. 6. *read* 29 Geo. 2. c. 12.
- 1057, 23, *for* the words 'a felon' *read* 'felons.'
- 1068, 23, *for* the asterisk * substitute a dagger †.
- 1083, 13, *for* 'altering' *read* 'uttering.'
- 1112, 2, *for* 23 Hen. 6. c. 10. *read* 23 Hen. 6. c. 9.
- 1123, 10, *for* 'others' *read* 'other.'
- 1171, 31, *for* 'be effectual' *read* 'be as effectual' And in the bottom note *for* 33 Geo. 3. c. 35, *read* 33 Geo. 3. c. 45.
- 1174, 3, *for* 28 Hen. 8. c. 8. *read* 28 Hen. 8. c. 7.
- 1187, in the first side note, *for* 11 Hen. 4. c. 14. *read* 1 Hen. 4. c. 14.
- 1212, 3, *for* 'carried in' *read* 'carried on.'

ADDENDA.

- 22, 37, *for* 'person' *read* 'persons.'
- 64, 36 & 37, *for* 'the pleadeth' *read* 'he pleadeth'
- 73, 11, 12, & 14, *for*, 'they' and 'them' *read* 'he' and 'him.'
- 95, in note to line 13, *for* 28 Edw. 1. st. 3. c. 13. *read* 28 Edw. 1. st. 3. c. 10.

*** Exclusive of those marginal notes which are above mentioned as omitted, a few others also of a less important nature might be pointed out. The punctuation is in several places erroneous, particularly in the first volume. And it is also to be observed, that in a few instances, st. 1. or st. 2. should have been added in the references to acts, to distinguish between the first or second session in which they were passed: but this omission is supplied by the chronological tables. Perhaps it may be deemed an error to use C. B. as an abbreviation for the court of common bench or common pleas, instead of C. P.

A

TABLE

OF

The English Statutes

ABRIDGED IN THIS WORK;

Chronologically arranged, and referring to the Corresponding or
Analogous Irish Statutes.

* The statutes marked thus are but partially abridged, or merely referred to.
P. In the first column means perpetual.
&c. In the first column means, "and to the end of the next session of parliament."
Ad. In the last column refers to the *Addenda* at the end of the work.

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
HENRY III.			
<i>Magna Charta</i> } cap. 1. 9 Hen. 3.		Rights of the church,	I. 314
_____ 5.		King. Temporalities of bishops,	I. 165.
_____ 7.		Assignment of dower,	I. 462
_____ 10.		Distress for services,	II. 10
_____ 11.		Court of common pleas fixed,	II. 37
_____ 12 & 13.		Assizes, <i>Ad.</i>	
_____ 14.		Amercements reasonable,	II. 1241
_____ 15.		Bridges by whom made,	I. 275
_____ 17.		Sheriffs, &c. Pleas of the crown,	II. 1123
_____ *18.		Wife. Child. Reasonable parts,	I. 654
_____ 22.		King's right to forfeitures,	II. 1241
_____ 23.		Wears. Nuisances,	II. 756
_____ 25.		Weights and measures,	I. 160
_____ 26.		Writ <i>de odio et atia</i> ,	II. 95
_____ 28.		Wager of law and battel, <i>Ad.</i>	
_____ 29.		Rights of the people.	I. 1
_____ 30.		Merchants strangers,	II. 461
_____ 34.		Appeals by women,	II. 1187
_____ 35.		Sheriffs' tourn,	II. 1122
_____ 36.		Alienations in mortmain,	I. 507
* <i>Charta de Foresta</i> } 11. 9 Hen. 3.		Privilege of peers,	I. 144
* <i>Statutum Hiberniæ</i> } <i>de cohæredibus</i>		Wardship,	I. 418
14 Hen. 3.			
Stat. Merton. } 1. 20 Hen. 3.		Writ of dower, <i>Ad.</i>	
_____ 2.		Emblements, <i>Ad.</i>	
_____ 3.		Punishment of re-disseisin,	II. 129.
_____ 4.		Approvement of common,	I. 439

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— cap. 10.		Appointment of attornies, II. 13	
Stat. <i>de anno bissex.</i> }		Increasing day of leap year, I. 464	
21 Hen. 3. }		Weights and measures, I. 160	
*51 Hen. 3. st. 1.		Distress. Beasts of the plough, II. 1	
*51 Hen. 3. st. 4.		Forestallors. Unwholesome meat, &c.	II. 700. 747.
*51 Hen. 3. st. 6.		Abuses of the remedy of distress,	II. 10. 11
Stat. Marleberge } 1. 2.		Punishment of re-disseisin, II. 130	
52 Hen. 3. }		Suit of court, <i>Ad.</i>	
— 8.		Sheriff's tourn, II. 1122	
— 9.		Fines for beau pleader, II. 269	
— 10.		Days in bank, II. 184	
— 11.		Essoins, II. 187	
— 12.		Charters of exemption. Juries, <i>Ad.</i>	
— 13.		Distresses where taken, II. 11	
— 14.		Duty of guardian in socage, <i>Ad.</i>	
— 15.		Amercement. Summons, <i>Ad.</i>	
— 17.		Plea of false judgment, II. 290	
— 18.		Essoins, II. 187	
— 19.		Replevin. Plaint, II. 107	
— 20.		Lord. Freeholder. Distress, <i>Ad.</i>	
— 21.		Accountants. Attachment. Waste, II. 118.	153. 192
— 22.		Manslaughter. Murder, <i>Ad.</i>	
— 23.		Voucher to warranty, II. 218	
— 25.		Writ of entry, II. 125	
— 26.			
— 29.			
EDWARD I.			
Stat. Westm. 1 }		Canonical purgation, II. 1216	
3 Edw. 1. }		Escape of felons, II. 583	
— 3.		Wreck. Prerogative, I. 188	
— 4.		Freedom of elections, I. 71	
— 5.		Amercements reasonable, II. 1241	
— 6.		Fines for beau pleader, <i>Ad.</i>	
— 8.		Escape. Pursuit of felons, II. 545. 1146	
— 9.		Coroners, I. 235	
— 10.		Writ <i>de odio et atia</i> , II. 95	
— 11.		Standing mute, &c. II. 1196	
— 12.		Rape on child, II. 916	
— 13.		False appeals, II. 1187	
— 14.		Prisoners bailable or not, II. 1162	
— 15.		Distress, II. 3	
— 16.		Distress, II. 107	
— 17.		Trespassers in parks, II. 827	
— 20.		Temporalities of bishops, I. 165	
— 21.		Distress. Foreigners, II. 11	
— 23.		Remedy for disseisin, II. 127	
— 24.		Maintenance. Barretry, II. 603	
— 25.		Bribery. Extortion, II. 610	
— 26.		Maintenance, II. 600	
— 28.		Barretry. Malpractice, II. 599	
— 29.		Extortion, II. 612	
— 30.		Extortion, II. 613	
— 31.		Maintenance, II. 600	
— 33.		Spreading false news, II. 660	
— 34.		Arrest. Liberties, II. 60	
— 35.		Attaint where it lies, II. 276	
— 38.		Voucher. Warranty, II. 218	
— 40.		Writ of right, <i>Ad.</i>	
— 41.		Essoins, II. 187-8	
— 42. 43. & 44.		Great distress. Estreats, <i>Ad.</i>	
— 45.			

Table of the Statutes.

iii

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
_____ cap. 46.	_____	Delays of justices, <i>Ad.</i>	
_____ 47.	_____	Nonage. Discontinuance, II. 216	
_____ 49.	_____	Writ of dower, <i>Ad.</i>	
4 Edw. 1. st. 2.	_____	<i>De officio coronatoris</i> , I. 236	
4 Edw. 1. st. 3. c. 6.	_____	Warranty, I. 513	
Stat. Gloucester } c. 1.	_____	Damages. Costs, II. 129. 269.	
6 Edw. 1. }	_____		
_____ 2.	_____	Nonage. Discontinuance, II. 216	
_____ 3.	_____	Warranty. Tenant by the curtesy, I. 513	
_____ 4.	_____	<i>Cessavit</i> . Tenant in fee-farm, II. 157	
_____ 5.	_____	Waste. Damages, II. 153	
_____ 6.	_____	Writ of <i>mort d'ancestor</i> , <i>Ad.</i>	
_____ 7.	_____	Writ of entry. Dower, I. 462. II. 125.	
_____ 8.	_____	County court, II. 35	
_____ 9.	_____	Appeal of murder, II. 1187	
_____ 10.	_____	Essoins, II. 187	
_____ 13.	_____	Waste pending suit, II. 153	
Expos. Stat. Glouc. }	_____	Damages, <i>Ad.</i>	
6 Edw. 1. }	_____		
Stat. <i>quo warranto</i> }	_____	<i>Quo warranto</i> , II. 174	
6 Edw. 1. }	_____		
7 Edw. 1. st. 1.	_____	Going armed prohibited, II. 658	
7 Edw. 1. st. 2.	_____	Alienation in mortmain, I. 507	
*Stat Rutland }	_____	Exchequer. King's debts, II. 38	
10 Edw. 1. }	_____		
Stat. Westm. 2 }	_____	<i>De donis conditionalibus</i> , I. 446. II. 131	
13 Edw. 1. st. 1. }	_____		
_____ 2.	_____	Distress. Replevin, II. 108	
_____ 3.	_____	Writ of <i>cui in vita</i> , II. 125	
_____ 4.	_____	Writ of <i>quod ei deforceat</i> , II. 131	
_____ 5.	_____	Writ of right of advowson, II. 160	
_____ 6.	_____	Voucher. Warranty, II. 219	
_____ 7.	_____	Admeasurement of dower, II. 125	
_____ 8.	_____	Admeasurement of pasture, II. 159	
_____ 9.	_____	Writ of mesne, <i>Ad.</i>	
*10.	_____	Attornies, II. 13	
_____ 11.	_____	Account. Auditors, II. 118	
_____ 12.	_____	False appeals, II. 1187	
_____ 13.	_____	Sheriffs' tourn, II. 1122	
_____ 14.	_____	Process in waste, II. 153	
_____ 15.	_____	Infants. <i>Prochein amy</i> , <i>Ad.</i>	
_____ 17.	_____	Essoins, II. 188	
_____ 18.	_____	Execution. <i>Elegit</i> , II. 309	
_____ 19.	_____	Administrators, I. 655	
_____ 20.	_____	<i>Cousinage</i> . <i>Aiel</i> . <i>Besaiel</i> , II. 126	
_____ 21.	_____	Writ of <i>cessavit</i> , II. 158	
_____ 22.	_____	Waste. Tenant in common, II. 154	
_____ 23.	_____	Executors. Actions, I. 661	
_____ 24.	_____	Writs <i>consimili casu</i> , II. 38 125. 152. 163	
_____ 25.	_____	Writs of assize, II. 126	
_____ 26.	_____	Re-disseisin, II. 130	
_____ 27 & 28.	_____	Essoin, II. 187.	
_____ 29.	_____	<i>Oyer</i> and <i>terminer</i> , II. 1108	
_____ 30.	_____	Justices of assize, II. 43	
_____ 31.	_____	Bill of exceptions, II. 263	
_____ 32 & 33.	_____	Mortmain, I. 508	
_____ 34.	_____	Rape, I. 462. II. 917	
*35.	_____	Ravishment of ward, II. 106	
_____ 36.	_____	Maintenance. Extortion, II. 612	
_____ 37.	_____	Distress, I. 11	
_____ 38.	_____	Jurors' qualification, II. 232	
_____ 39.	_____	Execution of process, II. 190	
_____ 40.	_____	Nonage. Abatement, II. 216	
_____ 45.	_____	<i>Scire facias</i> , II. 313	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— cap. 46.		Approvement, I. 439. II. 159. 934	
— 47.		Taking salmon, II. 872	
— 48.		View. Real actions, II. 217	
— 49.		Champerty. Maintenance, II. 603	
Stat. Winton, } 1&2.		Fresh suit. Hue and cry, II. 1147	
13Edw.1.st.2. } *6.		Constables. Hue and cry, I. 251. II. 1147	
13 Edw. 1. st. 3.		Statute merchant, I. 540. II. 310	
Stat. <i>circumspecte</i> } <i>agalis</i> 13 Edw. 1. } st. 4. }		Writ of prohibition, II. 92	
*Stat. <i>Hiberniæ</i> , } 6.		Pardon. Ireland, II. 1245.	
17 Edw. 1. }			
Stat. <i>quia emp-</i> } <i>tores terrarum</i> } 1.2.3.		Subinfeudation. Mortmain, I. 513	
18 Edw.1.st.1. }			
Stat. <i>quo warranto</i> , } 18 Edw. 1. st. 2. }		<i>Quo warranto</i> , II. 176.	
Stat. <i>quo warranto</i> } <i>novum</i> , 18 Edw.1. } st. 3. }		<i>Quo warranto</i> , II. 176	
Stat. <i>de finibus</i> , } 18 Edw.1. st 4. }		Manner of levying fines, I. 566. 570	
Stat. of vouchers, } 20 Edw. 1. st. 1. }		Voucher. Warranty, II. 219	
Stat. of waste, } 20 Edw.1. st. 2. }		Waste, II. 154	
Stat. <i>de defen. juris</i> } 20 Edw. 1. st. 3. }		Receipt of stranger to suit, <i>Ad.</i>	
*Stat. <i>de monet.</i> } 20 Edw. 1. }		Money current, II. 484	
Stat. <i>de his qui po-</i> } <i>nend. sunt in assisis</i> , } 21 Edw. 1. st. 1. }		Qualification of jurors, II. 232	
Stat. <i>de malefactor. in</i> } <i>parcis</i> , 21Edw.1 st.2. }		Trespassers in parks, II. 827.	
Stat. <i>de consultation.</i> } 24 Edw. 1. }		Writ of consultation, II. 94	
Confirmatio } <i>chartarum</i> , 25 } 1. to 4.		Charters confirmed, I. 2	
Edw. 1. st. 1. }			
— 5 & 6.		Aids, tasks, and prises, I. 9	
Stat. <i>de finibus</i> } <i>levatis</i> , 27 } 1.		Fines, I. 567. 571	
Edw. 1. st. 1. }			
— 3.		Justices of gaol-delivery, II. 1111	
— 4.		Justices of assize, II. 44	
Stat. <i>de falsa monet.</i> } *27 Edw. 1. st. 3. }		Money current, &c. II. 484-5	
*Stat. <i>de ward. et</i> } <i>relev.</i> 28 Edw.1.st.1. }		Socage tenure relief, I. 445	
Stat. for persons ap- } pealed 28Edw.1.st.2. }		Appeal. Approvers, II. 1197	
Artic. <i>super. chart.</i> } 28 Edw. 1. st. 3. }		Common pleas. Exchequer, II. 38	
— 5.		Court of king's bench, II. 37	
— 8.		Sheriffs, I. 209	
— 9.		Jurors' qualification, II. 232	
— 10.		Conspirators. Embracers, &c. <i>Ad.</i>	
— 11.		Champerty. Maintenance, II. 604-5	
— *12.		Distress. King's debt, II. 1	
— 13.		Sheriffs, I. 209	
— 15.		Process, <i>Ad.</i>	
— 16.		Return of writs, <i>Ad.</i>	

Table of the Statutes.

v

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap. 17.	.	Fresh suit, II. 1147	
*Ordin. of measures } 31 Edw. 1.	.	Weights and measures, I. 160	
Stat. <i>de protectionibus</i> , } 33 Edw. 1. st. 1.	.	Protection of king's service, II. 213	
Definit. of conspira- } tors, 33 Edw. 1. st. 2.	.	Conspirators. Champertors, II. 605	
Stat. of champerty, } 33 Edw. 1. st. 3.	.	Champerty. Conspiracy, II. 604-5	
Ordin. for inquests, } 33 Edw. 1. st. 4.	.	Challenge of jurors, II. 1204	
Stat. <i>de conjunctim</i> } <i>feoffat.</i> 34 Edw. 1.	.	Assize. Joint-tenancy. Plea, II. 219	
st. 1.	.		
Stat. of amortizing } lands. 34 Edw. 1. st. 3.	.	Mortmain, I. 509	
*Stat. <i>de tallag.</i> } <i>non concedendo</i> , } c. 1.	.	Tallage. Liberties and rights, I. 9	
34 Edw. 1. st. 4.	.		
Stat. <i>de apportis reli-</i> } <i>giosorum</i> , 35 Edw. 1.	.	Sending money to Rome, &c. II. 524-5	
st. 1. c. 2 & 3.	.		
EDWARD II.			
Stat. <i>de frangen. pri-</i> } <i>son.</i> 1 Edw. 2. st. 2.	.	When felony to break prison, II. 584	
* <i>Artic. cleri</i> , 9 Edw. 2.	.	Writ of prohibition, I. 438. II. 93	
st. 1. c. 1. to 5.	.		
6.	.	Court spiritual and temporal, <i>Ad.</i>	
13.	.	Examination of parsons, <i>Ad.</i>	
14.	.	Dignities of the church. Elections, <i>Ad.</i>	
*Stat. of sheriffs, } 9 Edw. 2. st. 2.	.	Sheriffs how appointed, I. 210	
Stat. of York, } 12 Edw. 2. st. 1. c. 1.	.	Attornies, II. 13	
2.	.	Witnesses. Jury, II. 248	
3 & 4.	.	<i>Nisi prius</i> , II. 45	
5.	.	Return of writs, <i>Ad.</i>	
Stat. of essoins, } 12 Edw. 2. st. 2.	.	Essoins, II. 183	
Stat. of Carlisle, } 15 Edw. 2.	.	Acknowledging fines. Attornies, I. 567. II. 13	
Stat. <i>prærogativa re-</i> } <i>gis</i> , 17 Edw. 2. st. 1.	.	Prerogative. Lapse, I. 511	
c. 8.	.		
9 & 10.	.	Idiots and lunatics, I. 190	
11.	.	Wreck of the sea, I. 188	
14.	.	Attainder. Forfeiture, <i>Ad.</i>	
15.	.	Advowson. Prerogative, I. 431	
16.	.	Attainder. Forfeiture, II. 1241	
18 Edw. 2.	.	View of frankpledge, <i>Ad.</i>	
Ordin. for bakers, } &c. <i>incert. temp.</i>	7.	Butchers. Unwholesome meat, &c. II. 748	
10.	.	Forestallers of grain, &c. II. 701	
Stat. <i>de visu terræ</i> } <i>incert. temp.</i>	.	View in real actions, II. 218	
EDWARD III.			
1 Edw. 3. st. 1. c. 4.	.	Plea of false judgment, II. 290	
5.	.	Return of writs, <i>Ad.</i>	
6.	.	Attaint, II. 276	
7.	.	Gaoler. Approver, II. 581	
1 Edw. 3. st. 2. c. 2.	.	Temporalities of bishops, I. 166	
5.	.	Military service, I. 360	

English statutes.	Irish Statutes.	Subject matter.	Pages where found.
_____ cap. 10.		Corodies, I. 166	
_____ 11.		Prohibition. Indictors, II. 93	
_____ 14.		Maintenance, II. 600	
_____ 16.		Justices of peace, I. 240	
_____ 17.		Sheriffs' tourn, II. 1123	
Stat. of Northampton } 2 Edw. 3. c. 2. }		Gaol delivery. Pardon, II. 1103. 1111. 1244	
_____ 3.		Arms. King's courts, II. 658	
_____ 4.		Sheriffs, <i>Ad.</i>	
_____ 5.		Execution of writs, II. 191	
_____ 8.		Rights and liberties, I. 11	
_____ 11.		Adjournment of common bench, <i>Ad.</i>	
_____ 16.		<i>Nisi prius</i> , II. 45	
_____ 17.		Writ of deceit, <i>Ad.</i>	
4 Edw. 3. c. 2.		Justices of peace, &c. I. 240. II. 47. 1109	
_____ 6.		Sending money to Rome, &c. II. 525	
_____ 7.		Executors. Actions, I. 661	
_____ 9.		Appointment of sheriffs, I. 210	
_____ 10.		Justices of gaol-delivery, II. 1109	
_____ 11.		Justices of assize, &c. II. 600	
_____ 14.		Parliament, I. 12	
5 Edw. 3. c. 3.		Sending money to Rome, II. 525	
_____ 4.		Sheriffs, I. 210	
_____ 6.		<i>Nisi prius</i> . Attaint, II. 276	
_____ 7.		Attaint, II. 276	
_____ 8.		Escape. Bail, II. 583	
_____ 9.		Rights and liberties, I. 2	
_____ 10.		Embracery, II. 611	
_____ 11.		Process against felons, <i>Ad.</i>	
_____ 12 & 13.		Outlawry, <i>Ad.</i>	
9 Edw. 3. st. 1. c. 3.		Executors. Process, <i>Ad.</i>	
_____ 4.		Witnesses. Jurors, II. 248	
*9 Edw. 3. st. 2. c. 1. 2. 3.		Offences in respect to coin, II. 485	
10 Edw. 3. st. 1. c. 2 & 3.		Charters of pardon, II. 1244-6	
*10 Edw. 3. st. 3.		Luxury restrained, II. 791	
14 Edw. 3. st. 1. c. 5.		Court of appeal, II. 42	
_____ 6.		Misprisions amended, II. 280	
_____ 7.		Sheriffs, I. 210-215	
_____ 8.		Coroners. Escheators, I. 235. II. 166	
_____ 10.		Sheriffs. Gaols, I. 225. II. 581	
_____ 11.		Clerk of recognizances, I. 541	
_____ 15.		King's pardon, II. 1244	
_____ 16.		<i>Nisi prius</i> , II. 45	
_____ 17.		Writ of <i>juris utrum</i> , II. 163	
_____ 18.		Voucher. Warranty, II. 219	
14 Edw. 3. st. 2. c. 1.		Liberties and rights, I. 9	
14 Edw. 3. st. 4. c. 4 & 5.		Temporalities of bishops, I. 164-5	
18 Edw. 3. st. 2. c. 2.		Justices of peace, I. 240-1	
18 Edw. 3. st. 3. c. 3.		Mortmain licenses, I. 510	
_____ 5.		Prohibition, II. 94	
18 Edw. 3. st. 4.		Oath of the justices, II. 50	
18 Edw. 3. st. 5.		Oath of clerks in chancery, &c. II. 363	
20 Edw. 3. c. 1 & 2.		Duty of justices and barons, <i>Ad.</i>	
_____ 3.		Justices of assize, &c. Oath, II. 51	
_____ 4 & 5.		Maintenance, <i>Ad.</i>	
_____ 6.		Justices of assize, II. 1111	
25 Edw. 3. st. 2.		Aliens. Bastardy, I. 151. II. 231	
25 Edw. 3. st. 3. c. 3.		King. Advowson, II. 162	
_____ 4.		Benefit of clergy, II. 1214	
_____ 7.		King's title by lapse, II. 162	
25 Edw. 3. st. 4. c. 3.		Fore-stallors, II. 701	
_____ 4.		Wears. Nusances, II. 757	
25 Edw. 3. st. 5. c. 2.		What offences treason, II. 470 to 480	
_____ 3.		Indictors. Jurors, II. 1204	

Table of the Statutes.

vii

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap. 4.		Liberties and rights, I. 2	
5.		Executors of executors, I. 661	
8.		Military service, I. 361	
*9.		Weights and measures, I. 161	
14.		Process against felons, II. 1190	
16.		Plea of non-tenure, II. 221	
17.		Process of <i>capias</i> and <i>exigent</i> , II. 192	
19.		Protections, II. 213	
22.		Provisors, II. 525	
Stat. of provisors } 25 Edw. 3. st. 6. }		Provisors, I. 314. II. 525	
Stat. of provisors } 27 Edw. 3. st. 1. }		Provisors. <i>Præmunire</i> , II. 528	
2.		Charters of pardon, II. 1246	
Statute of the staple } 27 Edw. 3. st. 2. c. 9. }		Statute staple. Recognizance, I. 541 II. 134. 311-2	
14.		Money current, II. 484	
17.		Merchants strangers, II. 462	
20.		Merchants strangers, II. 462	
28 Edw. 3. c. 3.		Liberties and rights, I. 3	
6.		Coroners, I. 235	
7.		Sheriffs, I. 215	
8.		Attaint, II. 276	
9.		Writ <i>de odio et atia</i> , II. 96	
11.		Fresh suit. Hue and cry, II. 1147	
*13.		Jury <i>de medietate linguæ</i> . Forestallors, II. 257. 462. 701	
31 Edw. 3. st. 1. c. 3.		Estreats discharged, II. 1244	
11.		Administration, I. 655	
12.		Exchequer chamber, II. 39	
14.		Escape, II. 583	
15.		Sheriffs' tourn, II. 1122	
Ordin. <i>pro statu</i> } <i>terræ Hiberniæ</i> }		Pardon. Ireland, II. 1245	
31 Edw. 3. st. 4.			
34 Edw. 3. c. 1.		Justices of peace, <i>oyer and terminer</i> , I. 240 II. 1108. 1241	
4.		Who to be jurors, II. 233	
7.		Attaint, II. 276	
8.		Embracery, II. 611	
13.		Escheators' inquest, II. 167	
16.		Fines, <i>Ad</i> .	
22.		Concealing hawks, II. 844	
36 Edw. 3. st. 1. c. 9.		Actions upon statutes, II. 115	
10.		Parliament, I. 12	
13.		Escheators' inquests, II. 164-8. 170	
15.		Pleadings in English, II. 228	
37 Edw. 3. c. 2.		<i>Identitate nominis</i> , <i>Ad</i> .	
19.		Stealing hawks, II. 845	
38 Edw. 3. st. 1. c. 4.		Bonds. Rome, II. 529	
12.		Embracery, II. 611	
38 Edw. 3. st. 2. c. 1 to 4.		Provisors. Rome, II. 529-530	
42 Edw. 3. c. 1.		Great Charter confirmed, I. 3	
3.		Liberties and rights, I. 3	
5.		Escheators, II. 167	
*9.		Sheriffs, I. 215	
11.		Jury process, <i>venire</i> , II. 231-2	
45 Edw. 3. c. 2.		Wears. Nusances, II. 757	
3.		Tithe of wood, I. 437	
50 Edw. 3. c. 1.		Liberties of the church, I. 314	
4.		Consultation. Prohibition, II. 94	
5.		Clergy arrest, II. 207	
6.		Conveyances. Uses, I. 536	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
RICHARD II.			
1 Ric. 2. cap. 2.		Liberties and rights, <i>Ad.</i>	
_____ 4.		Maintenance, II. 601	
_____ 5.		Extortion, II. 613	
_____ 7.		Maintenance, II. 601	
_____ 8.		Protections, II. 213	
_____ *9.		Conveyances. Uses, I. 536	
_____ 11.		Sheriffs, I. 215	
_____ 12.		Escape, II. 292	
_____ 15.		Clergy. Privilege, II. 207	
2 Ric. 2. st. 1. c. 2.		Forestallors, II. 701	
_____ 5.		Spreading false news, &c. II. 669	
3 Ric. 2. c. 3.		Provisors, II. 526	
*5 Ric. 2. st. 1. c. 2.		Offences in respect to coin, II. 484	
_____ *3.		Navy formed, I. 380	
_____ 8.		Forcible entry, II. 655	
6 Ric. 2. st. 1. c. 2.		Venue. Pleading, II. 215	
_____ 3.		Writ of nuisance, II. 152	
_____ 5.		Justices of assize, II. 48	
_____ 6.		Appeal of rape, II. 1188	
_____ 8.		Navy formed, I. 380	
R ic. 2. c. 6.		Statute of Winchester proclaimed, II. 1147	
_____ 7.		<i>Nisi prius.</i> Jurors, II. 255	
_____ 10.		Assize of rents, II. 128	
_____ 12.		Aliens benefices, II. 527	
_____ 13.		Riding or going armed, II. 658	
_____ 14.		Attornies, II. 13	
_____ 15.		Maintenance, II. 601	
8 Ric. 2. c. 2.		Justices of assize, II. 47	
_____ 4.		Falsifying records, &c. II. 580	
_____ 5.		Court of chivalry, II. 57	
9 Ric. 2. c. 3.		Attaint. Error, <i>Ad.</i>	
11 Ric. 2. c. 10.		Liberties and rights, I. 11	
_____ 11.		Justices of assize, II. 48	
12 Ric. 2. c. 2.		Officers, I. 210	
_____ *10.		Justices of peace, I. 241. 250. II. 1112	
_____ 11.		Spreading false news, &c. II. 660	
_____ 15.		Provisors, II. 527	
13 Ric. 2. st. 1. c. 1.		King's presentation, II. 163	
_____ 2.		Court of chivalry, II. 57	
_____ 5.		Admiralty court, II. 57	
_____ 6.		Serjeants at arms. Extortion, II. 613	
_____ 7.		Justices of peace, I. 241	
_____ 12.		Game qualification, II. 820	
_____ 15.		Gaols. Sheriffs, I. 225	
_____ 16.		Protections, II. 213	
_____ 17.		Receipt. Reversioner, <i>Ad.</i>	
_____ 19.		Taking salmon, II. 873	
13 Ric. 2. st. 2. c. 1.		Charters of pardon, II. 1246	
_____ 2 & 3.		Provisors, II. 527. 531	
13 Ric. 2. st. 3.		Maintenance, II. 601	
*14 Ric. 2. c. 6.		Navy formed, I. 380	
_____ *11.		Justices of peace, I. 241	
15 Ric. 2. c. 2.		Forcible entry, II. 656	
_____ 3.		Admiralty court, II. 57	
_____ 5.		Mortmain, I. 508	
_____ 6.		Appropriations. Vicars, I. 319	
_____ 12.		Liberties and rights, <i>Ad.</i>	
16 Ric. 2. c. 2.		Liberties and rights, <i>Ad.</i>	
_____ 5.		Provision and <i>præmunire</i> , II. 531	
_____ 6.		Charters of pardon, II. 1246	
*17 Ric. 2. c. 1.		Offences in respect to coin, II. 484	
_____ 6.		Costs in equity, II. 371	
_____ 8.		Sheriffs. Riots, II. 614	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap 9.	.	Conservatois of rivers, II. 873	
10.	.	Justices of peace. Gaol delivery, <i>Ad.</i>	
20 Ric. 2. c. 1.	.	Going armed, II. 658	
3.	.	Justices of assize, II. 49	
HENRY IV.			
1 Hen. 4. c. 6.	.	Petition for patents, I. 564	
8.	.	Assize. King's patentee, <i>Ad.</i>	
12.	.	Wears. Nusances, II. 757	
14.	.	Appeals where tried, II. 1187	
2 Hen. 4. c. 1.	.	Liberties and rights, I. 11	
3.	.	Provisors. Rome, II. 528	
4.	.	Purchasing bulls. Rome, II. 528	
*5.	.	Offence in respect to coin, II. 485	
7.	.	Nonsuit, <i>Ad.</i>	
8.	.	Chirographer of fines, I. 567	
11.	.	Admiralty court, II. 58	
4 Hen. 4. c. 2.	.	Indictments, II. 1185. 1215	
5.	.	Sheriffs, I. 219	
*7.	.	Disseisin. Uses, I. 536	
8.	.	Writ of assize, II. 127	
11.	.	Wears. Nusances, II. 757	
12.	.	Appropriations. Vicar, I. 319	
13.	.	Military service, I. 361	
18 & 19.	.	Attornies, II. 14	
*20.	.	Ports. Prerogative, I. 160	
22.	.	King's presentation, II. 163	
23.	.	Judgment, <i>Ad.</i>	
5 Hen. 4. c. 2.	.	Approver. Pardon, II. 1193	
5.	.	Mayhem, II. 908	
8.	.	Wager of law, <i>Ad.</i>	
10.	.	Justices of peace. Gaols, <i>Ad.</i>	
12.	.	Statute merchant, II. 311	
14.	.	Fines inrolled, I. 568	
7 Hen. 4. c. 4.	.	Protection. Escape, II. 214	
8.	.	Provisors, II. 528	
13.	.	Attornies, II. 13	
15.	.	Elections. Parliament, I. 97	
9 Hen. 4. c. 5.	.	Disseisin. Assize, <i>Ad.</i>	
9.	.	Elections, I. 314	
11 Hen. 4. c. 1.	.	Elections. Parliament, I. 97	
3.	.	Records amended, II. 280	
9.	.	Indictment. Grandjuror, II. 1166	
11 Hen. 4.	.	Officers. Bribery, II. 610	
13 Hen. 4. c. 7.	.	Riots. Routs, &c. II. 614	
HENRY V.			
1 Hen. 5. c. 1.	.	Elections. Parliament, I. 21	
4.	.	Sheriffs. Bailiffs, I. 219	
5.	.	Additions of defendants, &c. II. 1185	
2 Hen. 5. s. 1. c. 1.	.	Visitors of hospitals, I. 427	
2.	.	<i>Habeas corpus cum causa</i> , II. 98	
3.	.	Prohibition. Libel, II. 94	
4.	.	Justices of peace, II. 1112	
8.	.	Riots. Inquests, II. 615	
c. 9 }	.	Process. Offenders absconding, II. 1193	
P. by 8 Hen. 6. c. 14 }	.	Justices of peace, I. 241	
2 Hen. 5. st. 2. c. 1.	.	Jurors' qualification, II. 233	
3.	.	Offences in respect to coin, II. 434	
*3 Hen. 5. st. 1. c. 1.	.	Provisors, II. 528	
3 Hen. 5. st. 2. c. 4.	.	Clipping, &c. money, II. 479	
6.	.	Letters of marque, I. 157	
4 Hen. 5. c. 7.	.	Indictments. Conspiracy, II. 1193	
7 Hen. 5. c. 1.	.		

English Statutes.		Irish Statutes.		Subject matter.	Pages where found.
9 Hen. 5. st. 1. c. 1. — 4	.	.	.	Indictment. Conspiracy, II. 1193 Records amended, II. 280	
 HENRY VI.					
*2 Hen. 6. c. 6. —— ———— ———— ———— ————	*	.	.	Offences in respect to coin, II. 485 Money. Coin, II. 484 Offices, I. 441 Weights and measures, I. 161 Fishery law, II. 873 Records amended, II. 280	
4 Hen. 6. c. 3.	.	.	.		
6 Hen. 6. c. 1.	}	.	.	Capias. Exigent, II. 1190	
P. by 8 Hen. 6. c. 10.	}	.	.	Panels in assize, II. 128	
———— 2.	.	.	.	Clergy. Privilege. Arrest, II. 207.	
8 Hen. 6. c. 1.	.	.	.	Weights and measures, I. 161	
———— *	.	.	.	Elections. Parliament, I. 21. 98	
———— 7.	.	.	.	Forcible entry, II. 123-8	
———— 9.	.	.	.	Process. Outlawry, II. 1190-1	
———— 10.	.	.	.	Records amended, embazzled, II. 280. 581	
———— 12.	.	.	.	Riots. Process, II. 1193	
———— 14.	.	.	.	Records amended, II. 281	
———— 15.	.	.	.	Escheators. Inquest, II. 164	
———— 16.	.	.	.	Assize. Disseisin, Ad.	
———— 26.	.	.	.	Inquest de medietate lingue, II. 257	
———— 29.	.	.	.	Idemitate nominis, Ad.	
9 Hen. 6. c. 4.	.	.	.	Bastardy. Certificate, Ad.	
———— 11.	.	.	.	Elections. Parliament, I. 21	
10 Hen. 6. c. 2.	.	.	.	Outlawry, Ad.	
c. 4. }	.	.	.	Process. Indictment, II. 1191	
P. by 18 Hen. 6. c. 9.	}	.	.	Assize. Disseisin, I. 128	
———— 6.	.	.	.	Disseisin. Use, I. 536	
11 Hen. 6. c. 2.	.	.	.	Attaint, II. 277	
———— *3.	.	.	.	Waste, II. 154	
———— 4.	.	.	.	Justices of peace, II. 1113	
———— 5.	.	.	.	Recognizance. Execution, II. 312	
———— 6.	.	.	.	Assault. Affray, II. 659	
———— 10.	.	.	.	Nisi prius. Felony, II. 1112	
———— 11.	.	.	.	Safe conduct, II. 463	
14 Hen. 6. c. 1.	.	.	.	Attaint, II. 277	
15 Hen. 6. c. 3.	.	.	.	Patents dated, I. 564	
———— 5.	.	.	.	Attaint, II. 277	
18 Hen. 6. c. 1.	.	.	.	Inquisitions, II. 165	
———— 2.	.	.	.	Escheators. Inquests, II. 165	
———— 6.	.	.	.	Safe conduct, II. 463	
———— 7.	.	.	.	Outlawry, Ad.	
———— 8.	.	.	.	Justices of peace, I. 241	
———— 9.	.	.	.	Appeals. Indictments, II. 1193	
———— 11.	.	.	.	Desertion, II. 519	
———— 12.	.	.	.	Safe conduct, II. 463	
———— 19.	.	.	.	Peeresses' trial, Ad.	
20 Hen. 6. c. 1.	.	.	.	Sheriff, I. 215	
———— 9.	.	.	.	Sheriffwicks. Bail, I. 219. II. 203. 1163	
23 Hen. 6. c. 7.	.	.	.	Election. Parliament, I. 97	
———— 9.	.	.	.	Election. Parliament, I. 63. 97	
———— *10.	.	.	.	Escheators. Inquest, II. 165-8	
———— *14	.	.	.	Fairs. Holidays, II. 447-8	
———— 16.	.	.	.	Safe conduct, II. 464	
27 Hen. 6. c. 5.	.	.	.	Women. Obligation, Ad.	
31 Hen. 6. c. 4.	.	.	.	Servants. Embezzlement, II. 922	
———— 9	.	.	.		
33 Hen. 6. c. 1.	.	.	.		

Table of the Statutes.

xi

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
EDWARD IV.			
1 Edw. 4. c. 2.		Sheriffs' tourn, II. 1123	
12 Edw. 4. c. 1.		Sheriffs, I. 215	
— 7.		Wears. Nusances, II. 756-8	
— 9.		Escheators, II. 167	
14 Edw. 4. c. 4.		Safe conduct, II. 464	
*17 Edw. 4. c. 1.		Money. Gold. Silver, II. 485	
— c. 2. }		Piepoudre court, II. 35	
P. by 1 Ric. 3. c. 6. }		Sheriffs, I. 216	
— 7.		Game, II. 846	
22 Edw. 4. c. 6.			
RICHARD III.			
*1 Ric. 3. c. 1 & 5.		Uses, I. 536	
— 2.		Liberties and rights, <i>Ad.</i>	
— 3.		Bail. Escape. Forfeiture, II. 583. 1248	
— 4.		Sheriffs' tourn, II. 1122	
— 7.		Fines, I. 567-571	
HENRY VII.			
1 Hen. 7. c. 4.		Priests. Incontinency, <i>Ad.</i>	
— 7.		Hunting. Night. Disguise, II. 828	
3 Hen. 7. c. 1.		Star-chamber. Coroners. Inquests. Recognizances, I. 238-9. II. 545. 1101. 1189. <i>Ad.</i>	
— 2.		Forcible abduction, II. 910	
— 3.		Calendars. Prisoners, II. 1109	
— 4.		Fraudulent gifts, I. 596	
— 10.		Costs. Error, II. 286	
— 14.		Felony. King's council, II. 508	
*4 Hen. 7. c. 10.		Navy, I. 580	
— 13.		Benefit of clergy, II. 1215	
— 20.		Actions popular, II. 115	
— 24.		Fines proclaimed, I. 571	
*7 Hen. 7. c. 1.		Desertion, II. 520	
11 Hen. 7. c. 1.		Treason, <i>Ad.</i>	
— *4.		Weights and measures, I. 161	
— 12.		Paupers. Counsel. Costs, II. 275	
— 15.		Sheriffs. Plaints, II. 36	
— 17.		Game, II. 845 6-7	
— 20.	10 Car. 1. st. 2. c. 8.	Alienation by women, I. 519	
*12 Hen. 7. c. 5.		Weights and measures, I. 161	
— 7.		Petit treason. Murder, II. 907	
*19 Hen. 7. c. 5.		Coin. Gold. Silver, II. 485	
— 7.	10 Hen. 7. c. 7.	Corporation. Bye-laws, I. 422	
— 9.	10 Car. 1. st. 2. c. 15.	Process. <i>Capias</i> , II. 192-3	
— 10.		Sheriffs. Gaols, I. 225	
— 11.		Game, II. 855	
— 13.		Riots. Jurors, II. 616	
— 20.		Costs. Error, II. 286	
HENRY VIII.			
1 Hen. 8. c. 7.		Coroners, I. 239	
— c. 8. }		Escheators, II. 167-8, &c.	
P. by 3 Hen. 8. c. 2. }		Escheators, II. 165	
— 10.		Juries, II. 1205	
3 Hen. 8. c. 12.		Outlawry, II. 193-4	
6 Hen. 8. c. 4.		Remitting prisoners, II. 1194	
— 6.	11 & 12 Geo. 3. c. 34.	Patents, I. 564	
— 15.		Recoveries. Replevin, I. 576. II. 112	
7 Hen. 8. c. 4.	33 Hen. 8. st. 1. c. 13.	Six clerks, II. 369	
14 & 15 Hen. 8. c. 8.		Game, II. 837	
— 10.		Plaint in assize, <i>Ad.</i>	
21 Hen. 8. c. 3.	33 Hen. 8. st. 1. c. 3.		

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap. 4.	.	Executors. Trustees, I. 662	
*21 Hen. 8. c. 5.	28 Hen. 8. c. 18.	Administration. Probate, I. 655 7, &c.	
6.	.	Mortuaries, I. 593	
7. }	33 Hen. 8. st. 1. c. 5.	Servants. Latency, II. 923	
P. by 5 Eliz. c. 10.	28 Hen. 8. c. 10.	Restitution. Felons, II. 1213	
11.	.	Clergy. Farmers, &c. I. 511-3. 326. 347.	
*13.	33 Hen. 8. st. 1. c. 11.	Falsifying recoveries, I. 576-7	
15.	33 Hen. 8. st. 1. c. 7.	Replevin. Pleading. Costs, II. 111-2	
19.	.	Bridges, I. 275	
*22 Hen. 8. c. 5.	.	Denizens' customs, I. 305	
*8.	.	Egyptians, II. 755	
10.	.	Foreign plea. Challenge, II. 1204-6	
c. 14. s. 5 & 6. }	10 & 11 Car. 1. c. 9.	Murder. Robbery. Arson, II. 904-7	
P. by 32 Hen. 8. c. 3. }	11. 12 & 13 Jac. 1. c. 3.	995. 1000.	
23 Hen. 8. c. 1. s. 3. }	.	Attaint, II. 277, &c.	
P. by 32 Hen. 8. c. 3. }	.	Recognizance, I. 541. II. 134. 312	
c. 3. }	.	Navy, I. 381	
P. by 13 Eliz. c. 25. }	.	Citation, II. 88	
6.	.	Mortmain, I. 509	
*7.	.	Murder. Cities, &c. Juries, II. 1204	
9.	.	Process. <i>Capias</i> , II. 193	
10.	10 Car. 1. st. 2. c. 15.	Costs, II. 270	
13.	10 Car. 1. st. 2. c. 17.	Justifiable homicide, II. 901	
14.	15 Car. 1. c. 9.	Costs. King, II. 275	
15.	.	Appeals. Rome, II. 51. 532	
24 Hen. 8. c. 5.	8.	Robbery, &c. Trial, II. 995. <i>Ad</i> ,	
8.	12.	Unnatural crime, II. 918	
25 Hen. 8. c. 3.	.	Game, II. 851 5-6	
P. by 32 Hen. 8. c. 3. }	10 Car. 1. st. 2. c. 20.	Clergy. Residence, I. 326	
c. 6. }	.	Clergy. Canons. Appeals, I. 164. II. 52. 533	
P. by 5 Eliz. c. 17. }	11.	Election of bishops, I. 314	
11.	*16.	First fruits. Dispensations, &c. I. 174. 317.	
*16.	19.	428. II. 533	
19.	20.	Marriages, I. 403	
20.	28 Hen. 8. c. 13.	King head of the church, I. 164	
*21.	2 Eliz. c. 4.	First fruits, &c. I. 166	
28 Hen. 8. c. 19.	*21.	Felonies. Wales, II. 1174	
*22.	28 Hen. 8. c. 2.	Treason. Trial. Forfeiture, II. 1171. 1198.	
28 Hen. 8. c. 5.	28 Hen. 8. c. 5.	1242	
*3.	28 Hen. 8. c. 8.	Marine felonies, <i>Ad</i> .	
*6.	.	Tenants, I. 167	
13.	28 Hen. 8. c. 7.	Jointure. Uses, I. 462. 536	
*27 Hen. 8. c. 4.	.	Patents how passed, I. 564	
*8.	10 Car. 1. st. 2. c. 1.	Bargain and sale inrolled, I. 539	
10.	*11.	Subtraction of tithes, II. 73	
*11.	16.	Prerogative, I. 158. II. 1195. 1245	
16.	10 Car. 1. st. 2. c. 1.	Parliament. Wales, I. 21	
20.	.	Monasteries dissolved, &c. I. 319	
*24.	.	Marriages, I. 403	
*26.	.	First fruits. Emblements, I. 458	
*28.	28 Hen. 8. c. 16.	Residence of clergy, I. 326	
*28 Hen. 8. c. 7.	28 Hen. 8. c. 2.	Marine felonies, II. 465. 1106	
*11.	.	Joint tenants, &c. Partition, I. 475	
*13.	.	Fishing. Ponds, II. 869	
15.	11. 12 & 13 Jac. 1. c. 2.	Peers. Officers. Precedence, I. 358	
31 Hen. 8. c. 1.	33 Hen. 8. st. 1. c. 10.	Monasteries dissolved, &c. I. 319. 436	
2.	.	Wills of lands, I. 581	
10.	.	Limitation. Actions, &c. II. 130. 3. 289	
13.	33 Hen. 8. st. 2. c. 5.	Execution. <i>Scire facias</i> , II. 314	
32 Hen. 8. c. 1.	10 Car. 1. st. 2. c. 2.	Tithes, I. 573. II. 74. 135	
2.	10 Car. 1. st. 2. c. 6.		
5.	10 Car. 1. st. 3. c. 7.		
7.	33 Hen. 8. st. 1. c. 12.		

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap. 9.	10 Car. 1. st. 3. c. 15.	Maintenance. Champerty, II. 602-4	
*14.		Navy, I. 381	
21.	11 Eliz. st. 3. c. 2.	Trinity term. Returns, II. 182	
28.	10 Car. 1. st. 3. c. 6.	Leases. Husband. Wife, I. 520. 573	
c. 30. }	33 Hen. 8. st. 2. c. 3.	Jeofails. Warrant of attorney, II. 281	
P. 2 & 3 Edw. 6. c. 32. }	33 Hen. 8. st. 1. c. 10.	Joint tenants, &c. Partition, I. 475	
	33. 10 Car. 1. st. 2. c. 7.	Descent. Entry, II. 122	
	34. 10 Car. 1. st. 2. c. 4.	Grantee of reversion, II. 113	
	36. 10 Car. 1. st. 2. c. 8.	Fine by tenant in tail, I. 572	
	37. 10 Car. 1. st. 2. c. 5.	Executors. Rents, II. 155	
	38. 33 Hen. 8. st. 1. c. 6.	Marriages, I. 402	
33 Hen. 8. c. 1.	26 Geo. 3. c. 37.	Swindling. False pretences, II. 1003	
	9.	Unlawful games, II. 792	
	12.	Offences in palaces, II. 577	
	20. 27 Eliz. c. 1.	Attainder. Forfeiture, II. 1242	
21. s. 3 & 4.		Royal assent, I. 144	
	23.	Treason. Trial, II. 1172	
	24.	Judges of assize, II. 48	
	27.	Corporations, I. 422	
	*39. 21 & 22 Geo. 3. c. 20.	King's debts, II. 320	
*34 & 35 Hen. 8. c. 4.		Bankrupts, I. 614	
	5. 10 Car. 1. st. 2. c. 2.	Wills of lands, I. 581	
	13.	Parliament, I. 21	
	14.	Certificate of convicts, II. 1218	
	20.	Recovery. King, I. 573	
	22.	Recoveries, &c. Towns, I. 573	
	*26.	Felonies. Wales, II. 1174	
35 Hen. 8. c. 2.	33 Geo. 3. c. 45.	Treasons out of realm, II. 1171	
	3.	King's stile, II. 535. <i>Ad.</i>	
c. 6. }	10 Car. 1. st. 2. c. 13.	<i>Nisi prius</i> , II. 234. 5. 7. 249. 250	
P. 2 & 3 Edw. 6. c. 32. }		<i>Custos rotulorum</i> , II. 1119	
37 Hen. 8. c. 1.		Malicious mischief, &c. II. 869. 903. 1007.	
	6.	1019. 1029	
	8.	Indictment. Form, II. 1185	
	17.	Doctors of civil law, II. 53	
EDWARD VI.			
1 Edw. 6. c. 1.		Reviling sacrament, II. 374-5	
	7. 10 Car. 1. st. 2. c. 14.	Discontinuance. Reprieve, I. 249. II. 216.	
		1109	
c. 12. s. 10 & 13. }		Capital felonies, II. 902-4. 922. 977. 995.	
		1600	
s. 14. }		Benefit of clergy, II. 1215	
s. 17. }		Widows of felons, II. 1243	
s. 22. }		Two witnesses required, II. 1206	
*2 & 3 Edw. 6. c. 1.		Book of common prayer, II. 376	
	*2.	Desertion, II. 520	
	8. 10 W. 3. c. 10.	Escheators, II. 165	
	13. 5 Geo. 2. c. 9.	Fishes, I. 435. 8. II. 75, &c.	
	15.	Combinations, II. 705	
	*20.	Tenths of benefices, I. 168	
	21.	Marriage of priests, I. 411	
	23.	Marriage. Precontract, I. 402	
	24. 10 Car. 1. st. 2. c. 19.	Murder. Trial, II. 1167	
	25.	County courts, II. 36	
	33. 11. 12 & 13 Jac. 1. c. 3.	Stealing a horse, &c. II. 977	
3 & 4 Edw. 6. c. 1.		<i>Custos rotulorum</i> , <i>Ad.</i>	
	3.	Approvement of common, <i>Ad.</i>	
	4. 12 Eliz. c. 2.	Patents, II. 230	
	10.	Popish books, &c. II. 436	
5 & 6 Edw. 6. c. 1.		Book of common prayer, II. 376	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
cap. 3.	7 W. 3. c. 14.	Holidays.	II. 448
4.		Affray. Churches, &c.	II. 659
9.		Robbery. Burglary,	II. 995-1000
10.		Robbery. Burglary, <i>Ad.</i>	
c. 11. }		Treason. Outlawry. Forfeiture,	II. 1172
12.		1206. 1243. <i>Ad.</i>	
16.		Marriage of priests,	I. 411
19.		Sale of offices,	I. 441
		Traffick for coin,	II. 503
MARY.			
1 Mar. st. 1.		Treason. Felony. <i>Præmunire</i> ,	II. 472.521
1 Mar. st. 2. c. 5.	10 Car. 1. st. 2. c. 6.	Limitation,	II. 163
6.		Counterfeiting seals, &c.	II. 474
7.	10 Car. 1. st. 2. c. 9.	Proclamation of fines,	I. 568
8.	7 W. 3. c. 13.	Sheriffs. Justices,	I. 216
1 Mar. st. 3. c. 1.	3 & 4 Ph. & M. c. 14.	Succession to crown,	I. 152
PHIL. & MARY.			
1 & 2 Ph. & M. c. 4.		Egyptians,	II. 756
8.	3 & 4 Ph. & M. c. 8.	Abbey lands,	II. 535
10.	3 & 4 Ph. & M. c. 11.	Treason. Misprision, &c.	II. 544. 1205
11.		Bringing counterfeit coin,	II. 479
12.	10 Car. 1. st. 2. c. 25.	Impounding distress,	II. 3. 109
13.	10 Car. 1. st. 2. c. 18.	Coroners. <i>Habeas corpus</i> . Bail. Information.	
2 & 3 Ph. & M. c. 7.	4 Ann. c. 11.	Recognizance,	I. 238. II. 96. 1163 5
10.	10 Car. 1. st. 2. c. 18.	Sale of horses,	I. 596
18.		Bail. Information, &c.	II. 1164
*4 & 5 Ph. & M. c. 3.		Commission of the peace, &c.	I. 249
4.		Desertion,	II. 521
7.	10 Car. 1. st. 2. c. 13.	Murder. Arson. Robbery,	II. 904-7. 919
8.	10 Car. 1. st. 3. c. 17.	<i>Tales</i> . Penal statutes,	II. 250
		Fraudulent abduction,	II. 912
ELIZABETH.			
1 Eliz. c. 1.	2 Eliz. c. 1.	Heresy. Ecclesiastical jurisdiction. Oath of	
2. }	2 Eliz. c. 2.	supremacy,	II. 373. 535-6. 548-9
s, 14. }	2 Eliz. c. 2. s. 3.	Service and sacraments,	II. 376
*4	2 Eliz. c. 3.	Recusancy,	II. 397
*11		First fruits,	I. 167
17		Ports appointed,	I. 160
*19	10 & 11 Car. 1. c. 3.	Fish,	II. 874
5 Eliz. c. 1.	28 Hen. 8. c. 13.	Conveyances by bishops,	I. 522
s. 21. }		Papal supremacy,	II. 541-2. 550 1
*4.		<i>Præmunire</i> . Punishment,	II. 544
*5.		Servants. Artificers, &c.	I. 386 to 397. II. 918
9.	28 Eliz. c. 1.	Navy. Desertion,	II. 520. & <i>Ad.</i>
10.		Witnesses. Perjury,	II. 260. 606-7
11.		Servants embezzling, <i>Ad.</i>	
14.	28 Eliz. c. 3.	Clipping coin,	II. 478
15.		Forgery,	II. 1042
17.	10 Car. 1. st. 2. c. 20.	Pretended prophecies,	II. 661
18.		Unnatural crime,	II. 918
21.		Lord keeper of great seal,	II. 38
23.		Game,	II. 845. 869
*25.		Excommunication,	II. 89
*26.		<i>Tales</i> . Wales, &c.	II. 250
8 Eliz. c. 1.		Bargain and sale inrolled,	I. 539
2.		Bishops consecrated, &c.	I. 316
4.		Costs. Suing in others' names,	II. 271. 598
5.		Benefit of clergy,	II. 999. 1218
13 Eliz. c. 2.		Admiralty appeals,	II. 58
*4.	21 & 22 Geo. 3. c. 20.	Popish bulls, &c.	II. 480. 543
5.	10 Car. 1. st. 2. c. 3.	King's debts,	II. 322
		Fraudulent conveyances,	I. 517. II. 1095

Table of the Statutes.

XV

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
6.	12 Eliz. c. 2.	Patents exemplified, II. 230	
7.	11 & 12 Geo. 3. c. 8.	Bankrupts, I. 615 to 653	
8.	10 Car. 1. st. 2. c. 22	Usury, I. 515	
10.	{ 10 & 11 Car. 1. c. 3 } { 10 W. 3. c. 6. }	Leases, &c. Clergy, I. 522. II. 84	
12.		Clergy ordination, &c. Impugning 39 articles, I. 323. II. 379	
14 Eliz. c. 3.	28 Eliz. c. 6.	Counterfeiting foreign coin, II. 545	
*5.		Poor, I. 226. 428	
8.	10 Car. 1. st. 3. c. 11.	Recovery. Tenant for life, I. 574	
9.	10 Car. 1. st. 2. c. 13.	Jury. <i>Tales</i> , II. 250	
11.	{ 10 & 11 Car. 1. c. 3 } { 10 W. 3. c. 6. }	Leases. Clergy. Dilapidations, I. 523. II. 84	
14.		Leases. Colleges, &c. I. 522	
18 Eliz. c. 1.		Impairing coin, II. 478	
c. 3. }		Bastards, I. 415	
P. by 16 Car. 1. c. 4. }		Actions popular, II. 115. 605	
c. 5. }		Leases. Colleges, I. 523	
P. by 27 Eliz. c. 10. }		Rape. Burglary, II. 917. 921	
6.		Benefit of clergy, II. 1216	
7. }	11. 12 & 13 Jac. 1. c. 3.	Leases. Clergy, I. 523	
s. 2 & 3. }		<i>Nisi prius</i> , II. 254	
11.		Jeofails cured, II. 282	
12.		Recusancy. Saying, &c. mass. Perverting protestants, II. 397. 416-7. 426. 481	
14.	10 Car. 1. st. 2. c. 12.	Fines. Recoveries, I. 568-9. II. 289	
23 Eliz. c. 1.		Game, II. 848-9	
3.	10 Car. 1. st. 2. c. 10.	Jesuits. Foreign seminaries, II. 417. 481.	544
10.		King's debts, II. 322	
27 Eliz. c. 2.		Fraudulent conveyances, I. 517. II. 1005	
*3.	21 & 22 Geo. 3. c. 20.	Demurrer. Amendment, II. 227	
4.	10 Car. 1. st. 2. c. 3.	Jury. Issues, II. 235 to 240	
5.	10 Car. 1. st. 2. c. 11.	Jurors. Issues, II. 236	
6.		Exchequer chamber, II. 40	
c. 7. }	7 Hen. 6.	Under sheriffs' oath, I. 222	
P. by 39 Eliz. c. 18. }		Hue and cry, II. 1148	
8.		Fees on executions, II. 315.6	
12.	10 Car. 1. st. 3. c. 18.	Popular actions. Attorney, II. 116	
13.	10 & 11 Car. 1. c. 13.	Recusancy, II. 398	
29 Eliz. c. 4.	6 Ann. c. 7.	Exchequer chamber, II. 39-40	
c. 5. s. 21.		Proclamation. Fines, I. 568	
6.		Secret outlawries, II. 193	
31 Eliz. c. 1.		Summons in real actions, II. 189	
2.		Embezzling king's stores, II. 514	
c. 3. s. 1 & 3. }	11. 12 & 13 Jac. 1. c. 8.	Actions popular, II. 116	
s. 2. }	10 Car. 1. st. 3. c. 12.	Simony. Elections, I. 512. II. 445	
4.		Actions popular, II. 116	
5.		Forcible entry, II. 124	
6.		Horses, selling, stealing, I. 598. II. 978	
c. 10. s. 20.		Recusancy, II. 400, to 408	
11.	10 Car. 1. st. 3. c. 13.	Poor houses, I. 420	
12.	4 Ann. c. 11.	Hospitals, &c. I. 420	
33 Eliz. c. 1 & 2.		Forcible abduction, II. 911	
c. 7. s. 27.		Robbery, II. 996	
*39 Eliz. c. 5.		Wandering soldiers, mariners, II. 753	
P. by 21 Jac. 1. c. 4. }		Poor, I. 226. 278. 394. 413	
9.	6 Ann. c. 16. s. 7.	Charitable uses, II. 333	
15.		<i>Habeas corpus cum causa</i> , II. 98	
c. 17. }			
P. by 16 Car. 1. c. 4. }			
*43 Eliz. c. 2.			
4.			
c. 5. }			
P. by 16 Car. 1. c. 4. }			

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
c. 6. } P. by 16 Car. 1. c. 4. }	2 Geo. 1. c. 11.	Costs, Damages. Summoning without warrant,	II. 273. 599
7. }	10 Car. 1. st. 2. c. 23.	Petty thefts, II. 931	
8. }	10 Car. 1. st. 3. c. 10.	Executors <i>de son tort</i> , I. 662	
JAMES I.			
†1 or 2 Jac. 1. c. 3.		Grants by bishops to king, I. 111. 522	
4. }		Recusants. Foreign seminaries, II. 402 3	426. 433-4
5. }		Stewards of leets, <i>Ad.</i>	
*c. 6. } P. by 16 Car. 1. c. 4. }		Servants' wages, I. 389	
c. 8. } P. by 16 Car. 1. c. 4. }	7 W. 3. c. 11.	Manslaughter. Stabbing, II. 902	
*c. 9. } P. by 21 Jac. 1. c. 7. }		Drunkenness, II. 458	
10. }		Extortion, <i>Ad.</i>	
11. }	10 Car. 1. st. 2. c. 21.	Bigamy, II. 751	
13. }	10 & 11 Car. 1. c. 12.	Privilege of parliament, II. 291	
15. }	11 & 12 Geo. 3. c. 3.	Bankrupt, I. 615 to 653	
c. 27. } P. by 16 Car. 1. c. 4. }		Game, II. 821-837. 846-7. 856	
*c. 31. } P. by 16 Car. 1. c. 4. }		Infected persons, II. 737	
3 Jac. 1. c. 1.	7 W. 3. c. 14.	Anniversary of gunpowder plot, II. 457	
4. }		Recusancy. Perverting protestants. Serving foreign prince, II. 403, 408. 414. 482. 509	
5. }		Recusants. Jesuits, I. 432. II. 409 to 414	418. 434-7-8
7. }		Attornies, II. 14. 33	
c. 8. } P. by 3 Car. 1. c. 4. }	10 Car. 1. st. 3. c. 8.	Recognizance. Writ of error, II. 286	
12. }		Fish, II. 877	
c. 13. } P. by 16 Car. 1. c. 4. }		Game, II. 821. 842	
21. }		Blasphemy. Stage plays, &c. II. 439	
4 Jac. 1. c. 3.	10 & 11 Car. 1. c. 8.	Costs of defendants, II. 271	
†5. }		Drunkenness, II. 459	
7 Jac. 1. c. 2.		Naturalization, I. 306	
*3. }		Poor apprentices, I. 394	
*c. 4. } P. by 16 Car. 1. c. 4. }		Houses of correction. Bastards, I. 415	
§5. }	10 Car. 1. st. 2. c. 16.	Actions against officers, II. 144	
6. }		Recusancy. Oath of allegiance, II. 409. 551	
10. }		Drunkenness, II. 461	
c. 11. } P. by 16 Car. 1. c. 4. }		Game, II. 821. 848-850	
c. 12. } P. by 16 Car. 1. c. 4. }		Shop books evidence, II. 259	
15. }		Debt to and from the king, II. 330	
21 Jac. 1. c. 2.		Limitation against king, II. 170	
3. }		Monopolies, II. 702. & <i>Ad.</i>	
4. }	10 & 11 Car. 1. c. 11.	Actions popular, II. 117	
5. }	7 W. 3. c. 13.	Sheriffs' accounts, I. 217	
6. } P. by 16 Car. 1. c. 4. }	10 Car. 1. st. 3. c. 16.	Larceny by women, II. 1216	

† The statutes of this year are sometimes referred to as 1 Jac. 1. sometimes 2 Jac. 1. *vide* Ruffhead's statutes.

‡ Perpetual by 21 Jac. 1. c. 7. continued to end of first session of next parliament, by 21 Jac. 1. c. 28. and enforced as perpetual by 1 Car. 1. c. 4.

§ Perpetual by 21 Jac. 1. c. 12. continued to end of first session of next parliament by 21 Jac. 1. c. 23.

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
7	.	Drunkenness, II. 460	
8	10 & 11 Car. 1. c. 10.	<i>Certiorari</i> . Process of the peace, II. 1101	
12.	10 Car. 1. st. 2. c. 16.	Actions against officers, II. 144	
13.	10 Car. 1. st. 2. c. 12.	Jeofails cured, II. 283	
14.	15 Car. 1. c. 1.	Information of intrusion, II. 174	
15.	10 Car. 1. st. 3. c. 13.	Forcible entry, II. 124	
c. 16. }	10 Car. 1. st. 2. c. 6.	Limitation, II. 122. 131. 222-3	
s. 5. }	s. 16.	Trespass involuntary, II. 150	
s. 6. }	2 Geo. 1. c. 11.	Damages. Costs, II. 273	
19.	11 & 12 Geo. 3. c. 8.	Bankrupt, I. 615 to 653	
23	9 W. 3. c. 13.	<i>Habeas corpus cum causa</i> , II. 99	
24.	10 Car. 1. st. 3. c. 9.	Death in execution, II. 291	
25.	15 Car. 1. c. 3.	Patentees, &c. Forfeiture, II. 170	
26.	10 Car. 1. st. 3. c. 20.	Personating others. Fine, &c. II. 581	
*28. s. 1 & 6.	.	Poor apprentices. Sanctuary, I. 394.	II. 1193
CHARLES I.			
1 Car. 1. c. 1. }	.	Sunday kept holy, II. 450	
P. by 16 Car. 1. c. 4. }	.	Drunkenness, II. 461	
4.	.	Petition of right, I. 3. 9. 10.	
3 Car. 1. c. 1. }	7 W. 3. c. 17.	Sunday kept holy, II. 452	
P. by 29 Car. 2. c. 7. }	2 Ann. c. 6.	Foreign education, II. 434	
2.	.	Poor apprentices. Bastards, I. 394. 415	
4.	6 Geo. 1. c. 1.	Michaelmas term. Returns, II. 183	
16 Car. 1. c. 6.	10.	Star-chamber abolished, I. 4	
11.	.	Commission court abolished, I. 6	
14.	.	Ship-money abolished, I. 10	
19.	.	Weights and measures, I. 161. II. 1124	
20.	.	Liberties and rights, <i>Ad.</i>	
*21.	.	Monopolies, II. 704	
*c. 32. 33. 34 & 35.	.	Irish forfeitures, I. 173	
CHARLES II.			
12 Car. 2. c. 4.	14 & 15 Car. 2. st. 4. c. 9.	Customs, I. 195	
14.	14 & 15 Car. 2. st. 4. c. 1.	Anniversary 29th May, II. 457	
*18.	27 Geo. 3. c. 23.	Navigation act, I. 381	
*23.	14 & 15 Car. 2. c. 8.	Excise, I. 195	
24.	14 & 15 Car. 2. c. 19.	Military tenures. Excise. Guardian, I. 187. 361. 418 442-3-4. II. 106	
*25.	17 & 18 Car. 2. c. 19.	Adulterating wine, II. 748	
30.	7 W. 3. c. 14.	King. Anniversary, I. 13. II. 457	
13 Car. 2. st. 1.	.	Masters in chancery, II. 368	
1.	.	Misprisions. King. Parliament, II. 547	
5.	.	Tumultuous petitioning, II. 655	
*6.	.	King generalissimo, I. 157	
12.	.	Ecclesiastical jurisdiction, II. 1126. <i>Ad.</i>	
13 Car. 2. st. 2. c. 1.	.	Corporations, I. 422	
2	7 W. 3. c. 25.	Process. Bail. Prisoners. Error, II. 97	200. 285-6
13 & 14 Car. 2. c. 4.	17 & 18 Car. 2. c. 6.	Service and sacraments, I. 323, &c.	II. 380, &c.
*11.	14 & 15 Car. 2. c. 9.	King. Ports, I. 160	
*c. 12. }	.	Constables. Poor, I. 252 278. 415	
P. 12 Ann. st. 1. c. 18. }	.	Collectors. Pleading, II. 143	
17.	.	Sheriffs, I. 216-3	
*c. 21 }	.	Impairing the coin, II. 485	
P. by 1 Jac. 2. c. 17. }	.	Trees. Larceny, II. 932	
31.	.	Service and sacrament, I. 325. II. 383	
15 Car. 2. c. 2.	.	Parliament, I. 12	
6.	.		
16 Car. 2. c. 1.	.		

English Statutes.	Irish Statutes.	Subject matter. Pages where found.
cap. 2.		Exchequer chamber, II. 39
7.	10 W. 3. c. 17.	Gaming, II. 798. 801
16 & 17 Car. 2. c. 5. }	17 & 18 Car. 2. c. 11.	Execution. Extent, II. 314
P. 22 & 23 Car. 2. c. 2. }		
c. 8. }	17 & 18 Car. 2. c. 12.	Jeofails. Error, II. 284. 5. 7-8
P. 22 & 23 Car. 2. c. 4. }		Nonconformists, II. 385
17 Car. 2. c. 2.		Clergy. Vicarages, I. 320
*3.		Damage cleer, <i>Ad.</i>
6.	7 W. 3. c. 10.	Replevin, II. 112
7.	7 W. 3. c. 22.	Judgment after death of party, II. 264
c. 8. }	7 W. 3. c. 7.	Administrator <i>de bonis non</i> , I. 661
P. 1 Jac. 2. c. 17. }	7 W. 3. c. 6.	Poor. Gaolers, I. 226
*19 Car. 2. c. 4.		Replevin, <i>Ad.</i>
5.		Death of <i>cestui que vies</i> presumed, I. 459
6.	7 W. 3. c. 8.	Exchequer chamber, II. 39
20 Car. 2. c. 4.		Seditious conventicles, II. 385-6
22 Car. 2. c. 1.		Stealing king's stores. Cloth, II. 514. 985
5.		Weights and measures, I. 161. II. 1125
8.		Mayhem, II. 908
22 & 23 Car. 2. c. 1.	11 Geo. 2. c. 8.	Malicious mischief, II. 1009. 1019
7.	29 Geo. 2. c. 12.	Certificate. Damage. Costs, II. 273
9.	2 Geo. 1. c. 11.	Administration. Intestates, I. 655, &c.
c. 10. }	7 W. 3. c. 6.	Gaols. Poor, I. 227
P. by 1 Jac. 2. c. 17. }		Game, II. 822. 838. 843. 869
*20.		Test-act. Oaths, &c. I. 257. 292-3.
25.		II. 554
25 Car. 2. c. 2.	2 Ann. c. 6.	Parliament, I. 21
*9.		Parol leases, &c. I. 518
29 Car. 2. c. 3. s. 1. 2. 3. }	7 W. 3. c. 12. s. 1.	Parol promises, II. 114
s. 4. }		Devises of land in writing, I. 581
s. 5 & 6. }		Trust. Trustee. <i>Cestui que trust</i> , I. 538
s. 7 to 11. }		Estate <i>pur auter vie</i> . Occupant, I. 506
s. 12. }		Entry and relation of judgments, II. 265
s. 13. 14. & 15. }		Relation of execution, II. 308
s. 16. }		Contracts for goods, I. 596
s. 17. }		Inrolment of recognizances, I. 544
s. 18. }		Wills of personalty, I. 660
s. 19. to 24. }		Husband of wife intestate, I. 657
s. 25. }		Commissioners. Affidavits, II. 204
5.	7 W. 3. c. 6. s. 6.	Sunday kept holy, II. 214 452
7.	4 W. & M. c. 4.	Vicarages. Augmentation, I. 321
*8.	7 W. 3. c. 17.	Heresy, II. 373
9.	7 W. 3. c. 2.	Executors <i>de son tort</i> , I. 662
30 Car. 2. st. 1. c. 7. }	7 W. 3. c. 6. s. 11.	Papists. Parliament, I. 139
P. 4 & 5 W. & M. c. 24. }		Billetting restrained, I. 379
30 Car. 2. st. 2.		<i>Habeas corpus</i> Act, I. 7. II. 102, &c. 1203
31 Car. 2. c. 1.		
2.	21 & 22 Geo. 3. c. 11.	
JAMES II.		
*1 Jac. 2. c. 8.		Monopoly, II. 704
17.		Poor. Intestates' estates. I. 657
WIL. & MARY.		
*1 W. & M. st. 1. c. 6.		Coronation oath, I. 154
8.		Oath of allegiance and supremacy, I. 290-6
9.		325. II. 557
15.		Papists' residence, II. 558
16.		Papists' arms, horses, II. 559
17.		Simoniackal contracts, &c. I. 512. 557
		Papists' residence, II. 559

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— 18	—	Toleration act, I. 256. II. 387, &c. 414-5	
— 21	—	Commissioners of great seal. <i>Custos rotulorum</i> , I. 359. II. 38. 1120.1	
— 25.	—	Oaths. Officers, II. 558	
— *26.	—	Papists advowsons, I. 347. 432	
— 30.	4 Ann. c. 12.	Prerogative. Mines, I. 189	
1 W. & M. st. 2. c. 2.	2 Ann. c. 5.	Bill of rights, I. 7. 8. 10. 11. 12. 71. 143. 150-1. 5. II. 1204. 1241	
2 W. & M. st. 1. c. 5.	7 W. 3. c. 22.	Distress, II. 1. to 11	
2 W. & M. st. 2. c. 2.	—	Admiralty commissioners, II. 58	
3 W. & M. c. 2.	—	Oaths. Ireland, I. 142. 295. 326. II. 565.	
— c. 9. }	9 W. 3. c. 7.	Robbery. Burglary. Receiving stolen goods. Standing mute. Benefit of clergy, II. 587. 921. 931. 995. 6. 1197. 1217.9	
P. by 6 & 7 W. 3. c. 14. }	—	Settlement of poor, I. 278. 9	
— 11.	—	Fraudulent devices, I. 583. 4	
— c. 14. }	4 Ann. c. 5.	Will of personalty, I. 655	
P. by 6 & 7 W. 3. c. 14. }	—	Commissioners. Bail, II. 204. 581	
4 W. & M. c. 2.	—	Reward for taking thieves, &c. II. 1155	
— 4.	7 W. 3. c. 18.	Mortgages, II. 338	
— 8.	—	Information. Outlawry, II. 195. 1186	
— 16.	9 W. 3. c. 11.	Judgments doggetted, II. 266-7	
— 18.	—	Declaration. Prisoners, II. 96	
— c. 20. }	3 Geo. 2. c. 7.	Inquisitions. Outlawry, <i>Ad</i> .	
P. by 7 & 8 W. 3. c. 36. }	8 Ann. c. 9.	Game, II. 822. 854. 870	
— 21.	—	Executors, &c. <i>Devastavit</i> , I. 662	
— c. 22. }	—	Benefit of statute. Women, II. 1217	
P. by 7 & 8 W. 3. c. 36. }	—	Juries, II. 233. 5. 6. 8. 251	
— 23.	—	Royal mines, I. 189	
— c. 24. s. 12. }	9 Ann. c. 6 s. 7.	Parliament, I. 54	
— s. 13. }	29 Geo. 2 c. 6.	<i>Certiorari</i> , II. 1113	
+s. 15. to 21. }	4 Ann. c. 12.	<i>Capias pro fine</i> , II. 263	
5 W. & M. c. 6.	—	Pardon. Sureties, II. 1247	
— *c. 7. s. 57.	—	Parliament. Bank of England, I. 52. 608	
— c. 11. }	8 Ann. c. 5.	Parliament, I. 12	
P. by 8 & 9 W. 3. c. 33 }	—	Impairing the coin, II. 486	
— 12.	—	High treason. Trial, II. 1199	
— 13.	—	Elections. Parliament, I. 91	
— *20.	—	Small tithes, II. 82	
6 W. & M. c. 2.	—	Elections. Parliament, I. 99. 103	
WILLIAM III.		Bartering gold coin, II. 503	
*6 & 7 W. 3. c. 17.	—	Bartering gold coin, II. 503	
7 W. 3. c. 3.	5 Geo. 3 c. 21.	Oaths. Attornies, &c. II. 30. 53	
— 4.	35 Geo. 3. c. 29.	Parliament, I. 25. 30. 49. 53. 66. 72. 81	
7 & 8 W. 3. c. 6. }	1 Geo. 2. c. 12.	Oaths. Parliament. Offices, I. 87. 91. 248	
P. by 3 & 4 Ann. c. 18. }	—	Juries. <i>Tales</i> , II. 239. 240. 251. 5	
— c. 7. }	—	Tithes. Quakers. Evidence, II. 81. 260	
P. 12 Ann. st. 1 c. 15. }	—	Mortmain. License, I. 510	
— *c. 10. s. 18.	—	Wills of personalty, I. 655	
— *c. 19. s. 12.	—		
— c. 24.	—		
— *25.	35 Geo. 3. c. 29.		
— c. 27. s. 19. 21.	—		
— *32.	29 Geo. 2. c. 6.		
— c. 34. }	7 Geo. 3. c. 21.		
P. 1 Geo. 1. st. 2. c. 6. }	19 Geo. 2. c. 18.		
— 37.	32 Geo. 3. c. 31.		
— *38.	—		

† The clauses of this act which relate to juries were temporary, and have been indirectly perpetuated by the 7 & 8 W. 3. c. 32. 3 Geo. 2. c. 25. and 6 Geo. 2. c. 37.

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
8 & 9 W. 3. c. 11. s. 1 to 5. } — s. 6. & 7. } — s. 8. } *c. 26. }	9 W. 3. c. 10. s. 1 to 5. } — s. 6. & 7. } — s. 8. & 9. }	Costs, II. 269. 272. 4. & <i>Ad.</i> Death. Abatement, II. 221. 264 Assigning several breaches, II. 225	
P. by 7. Ann. c. 25. } — *27. } — *30. } c. 31. }	8 Ann. c. 6. } } }	Counterfeiting coin, II. 474 490. & <i>Ad.</i> Escape. Privileged places, II. 293-4. 582 Poor, I. 279. 280. 394	
P. by 3 & 4 Ann. c. 18. } — 33. }	9 W. 3. c. 12. } }	Writ of partition, I. 475 <i>Certiorari</i> , II. 1115	
9 & 10 W. 3. c. 7. } — 11. } — 15. } — 17. } — 21. } — 32. } — *41. }	5 Geo. 2. c. 12. } } 10 W. 3. c. 14. } 8 Ann. c. 11. } 8 Ann. c. 6. } }	Fire and fire-works, II. 765 Poor, I. 280. 394 Arbitration, II. 12 Bills and notes, I. 606 Counterfeiting, &c. coin, II. 488 Apostasy. Heresy, II. 372 Embezzling warlike stores, II. 514	
*10 & 11 W. 3. c. 1. } — 7. } — 14. } — 16. } — 17. } — 23. }	 } } 4 Geo. 1. c. 10. 6 Geo. 1. c. 6 } 8 Ann. c. 4. } 11 Ann. c. 6. }	Army. Ireland, I. 377 Elections. Parliament, I. 66. 99 Error. Limitation, II. 289 Posthumous children, I. 471 Lotteries (unlawful,) II. 802	
— s. 7. & 8. } — *25. }	17 Geo. 2. c. 6. } }	Larceny. Burglary. Reward, II. 997. 1158 Clerk of assize, &c. fees, II. 1209	
*11 & 12 W. 3. c. 2. } — 4. } — 6. } c. 7. }	 } } }	Newfoundland. Trial, II. 1174 Irish forfeitures. Parliament, I. 54. 184 Papists, I. 413. II. 418, &c. 426. 434 Naturalization, I. 488	
P. by 6 Geo. 1. c. 19. } — 9. }	 } }	Piracy, II. 465. 6. 9. & <i>Ad.</i> Certificate. Damages. Costs, II. 273	
c. 16. } P. 1 Geo. 1. st. 2. c. 26. }	28 Geo. 3. c. 29. } }	Tithes. Hemp. Flax, I. 437 Gaols, I. 225	
*19. } 12 & 13 W. 3. c. 2. }	2 Ann. c. 5. } }	Act of settlement, I. 12. 53 143. 150. 3. 5. 8. 305. II. 1245	
— 3. } — *10. }	 } }	Privileges. Parliament, II. 207. 8 Parliament, I. 55	
*13 W. 3. c. 5. }	 }	Winchester bushel, I. 161	
ANNE.			
*1 Ann. st. 1. c. 7. } — 8. }	 } 21 & 22 Geo. 3. c. 48. }	Leases of crown lands, I. 174 Demise of the crown, I. 248. 359. II. 1110	
— *9. } — 30. }	 } }	Counterfeiting coin, II. 476 Maintenance of children, I. 414	
— *31 & 32. }	 }	Irish forfeitures, <i>Ad.</i>	
1 Ann. st. 2. c. 6. } — *9. }	8 Ann. c. 7. } 4 Ann. c. 11. }	Escape, II. 294 Receiving stolen goods, II. 588	
— s. 1. } — s. 3. }	 } 9 Ann. c. 6. }	Accessaries tried, II. 1196 Witnesses for prisoner, II. 1207	
— 17. }	 }	Oaths. Ireland, I. 142. 295	
— s. 3. }	2 Ann. c. 5. }	Treason, II. 483	
*2 & 3 Ann. c. 4. } — 5. }	6 Ann. c. 2. 8 Ann. c. 10. }	Registry of deeds, &c. I. 551. II. 1091	
— *6. }	 }	Wills of personalty, I. 655	
— *11. }	 }	Apprentices, I. 394	
— *18. }	 }	First fruits, I. 168	
— *20. }	 }	Privilege. Parliament, II. 207	
3 & 4 Ann. c. 9. } P. by 7 Ann. c. 25. }	3 Ann. c. 11. }	Treason. Mutiny, II. 473. 521 Promissory notes, I. 608, &c.	
— *18. }	 }	Return of jurors, II. 240	
4 Ann. c. 16. s. 1. } — s. 2. }	6 Ann. c. 10. s. 1. } — s. 2. }	Special demurrer. Error, II. 227 Jeofails. Judgment, II. 285	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— s. 3.	— s. 5.	Warrant of attorney, II. 282	
— s. 4. & 5.	— 4. & 5.	Pleading double matter, II. 225	
— s. 6.	— 6.	<i>Venire</i> . Hundredors, II. 235.	
— s. 7.	— 7.	Appeal of felony, &c. II. 1205.	
— s. 8.	— 8.	Clause of view. <i>Distringas</i> . II. 249	
— s. 9. & 10.	— 9. & 10.	Attornment, I. 514	
— s. 11.	— 11.	Dilatory plea. Affidavit. II. 221	
— s. 12. & 13.	— 12. & 13.	Bonds when satisfied, II. 226	
— s. 14.	— 14.	Nuncupative wills, I. 660	
— s. 15.	— 15.	Fines and recoveries, I. 577	
— s. 16.	— 16.	Entry to avoid fine, I. 572	
— s. 17.	— 17.	Limitation. Actions, II. 223	
— s. 18. & 19.	— 18.	Seamens' wages, II. 223-4	
— s. 20.	— 19.	Bail bond assigned, II. 206	
— s. 21.	— 20.	Warranty, I. 520	
— s. 22.	— 21.	<i>Subpœna</i> upon bills, II. 351	
— s. 23.	25 Geo. 3. c. 51.	Costs. Bills dismissed, II. 370. 1	
— s. 24.	6 Ann. c. 10. s. 21.	King's debts. Jeofails, II. 330	
— s. 25.	— s. 22.	Costs. Writ of error. II. 288	
— s. 27.	— s. 23.	Action of account, II. 119	
— *c. 19.	—	Apprentice, I. 395	
*5 Ann. c. 5.	—	Union. Scotland. Coronation oath, I. 156	
— 6.	9 Ann. c. 6.	Benefit of clergy, II. 1216. & <i>Ad</i> .	
— *8.	—	Articles of union. Scotland, I. 13 to 20.	150. 5.
— *9.	—	Escape, II. 294. 358.	
— c. 14. }	—	Game, II. 324. 6	
P. by 9 Ann. c. 25. }	—	Registry of deeds, &c. I. 551. II. 1091.	
— *18.	6 Ann. c. 2. 8 Ann. c. 10.	First fruits, I. 168	
— *24.	—	Irish Forfeitures, <i>Ad</i> .	
— *25.	—	Reward for taking burglars, &c. II. 1159	
c. 31. s. 1. to 4. & 7. }	—	Receiving stolen goods, &c. II. 587, 921	
— s. 5. & 6. }	8 Ann. c. 8.	Elections. Scotland. I. 19	
*6 Ann. c. 6	—	Treason, <i>Præmunire</i> , II. 483. 548	
— c. 7. s. 1 to 3. }	—	Parliament. Demise of the crown, I. 55. 146	
— s. 4 & 5. }	1 Geo. 2. c. 7.	Death of tenants for life proved, I. 472	
— 18.	—	Election. Peers. Scotland. I. 13, &c. 83	
— *23.	—	First fruits, I. 169	
— *27.	—	Accidental or negligent fire, II. 120, 920	
— *c. 31. s. 6. }	2 Geo. 1. c. 5.	Irish forfeitures, <i>Ad</i> .	
P. by 10 Ann. c. 14. }	—	Registry of deeds, &c. I. 551. II. 1091	
— *34.	—	Naturalization, I. 304	
— *35.	6 Ann. c. 2. 8 Ann. c. 10.	Ambassadors' privilege, II. 212, 464	
7 Ann. c. 5.	—	Advowson, I. 487. II. 162	
— 12.	1 Geo. 2. c. 23.	Infant trustees, &c. II. 348	
— 18.	2 Geo. 1. c. 6.	Registry of deeds, &c. I. 551, II. 1091	
— 19.	6 Ann. c. 2. 8 Ann. c. 10.	Treason. Scotland. II. 473. 1201	
— *20.	—	Counterfeiting coin. II. 476	
— *21.	—	Remedies for rent. II. 7. 8. 156. 309	
— 25.	9 Ann. c. 8.	Copyright, I. 587	
8 Ann. c. 14.	—	Elections. Parliament, I. 68	
— 19.	—	Lotteries unlawful, II. 803	
9. Ann. c. 5.	—	Gaming. Challenge to fight, II. 660. 798.	802
— *c. 6. s. 56.	—	Assault. Privy counsellor, II. 508	
— 14.	11 Ann. c. 5.	<i>Mandamus</i> . <i>Quo warranto</i> , II. 176 9	
— 16.	—	Returning Officer, <i>Ad</i> .	
— 20. }	19 Geo. 2. c. 12.	South-sea company, II. 1066	
— s. 8. }	—	Game, II. 326. 838. 852	
— *21.	—	Dissenters. Oaths, II. 391	
— 25.	—	Bankrupt, I. 616, 637	
10 Ann. c. 2.	6 Geo. 1. c. 5.	Bargain and sale inrolled, I. 539	
— 15.	41 & 12 Geo. 3. c. 8.		
— *18.	9 Geo. 2. c. 5. 1 Geo. 3. c. 3.		

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
_____ *19.		Election. Parliament, I. 52	
_____ 23.	35 Geo. 3. c. 29.	Election. Parliament, I. 25. 74. 88	
_____ *26. s. 109.		Lotteries. Insurance, II. 803	
12 Ann. st. 1. c. 7.	9 Ann. c. 6.	Burglary, Larceny, II. 921. 997	
_____ *18.		Poor. I. 280	
*12 Ann. st. 2. c. 6.		Mortuaries. I. 594	
_____ 12.	1 Geo. 2. c. 22.	Curates. Simony, I. 849. II. 512	
_____ *14.	2 Ann. c. 6.	Advowsons. Papists, I. 452	
_____ 16.	5 Geo. 2. c. 7.	Interest. Usury, I. 605. II. 695.	
_____ 18. }	4 Geo. 1. c. 4.	Wreck. Plunder. Salvage, II. 958 to 969	
P. by 4 Geo. 1. c. 12. }			
GEORGE I.			
1 Geo. I. st. 2. c. 4.		Naturalization, I. 306	
_____ 5.	27 Geo. 3. c. 15.	Riot. Malicious mischief, II. 613	
_____ 6.	7 Geo. 3. c. 21.	Quakers. Tithes. Oaths, II. 81	
_____ *10.	29 Geo. 2. c. 18.	First fruits. I. 169. 350. 511	
_____ 13.		Oaths, I. 289 to 292. II. 53. 561	
_____ *18.		Fish, II. 877	
_____ *c. 25. }		Seamen. Forgery, II. 1088	
P. by 9 Geo. I. c. 8. }		Parliament. Duration, I. 147.	
_____ 38.	7 Geo. 3. c. 3.	Desertion. Papists, II. 546	
_____ 47.		Mischief. Larceny. Trees, II. 934. & <i>Ad.</i>	
_____ 48.		Elections. Parliament, I. 56	
_____ 56.		Desertion, II. 546.	
*3 Geo. I. c. 2. s. 50.		Sinking fund. I. 204	
_____ *7.		Tenths. Clergy, I. 169	
_____ *10.		Sheriffs. Reward. Robbers, I. 211 to 224	
_____ *15.	12 Geo. 1. c. 4.	II. 1161	
*4 Geo. I. c. 11.	6 Geo. 1. c. 12.	Piracy. Theftbote. Receiving stolen goods,	
5 Geo. I. c. 4.		Transportation, II. 465. 587. 8. 1220	
_____ 6.		Unlawful conventicles, II. 392	
_____ 8.		Corporations, I. 423-4	
_____ 13.		Poor, I. 280	
_____ 27.		Amendment. Jeofails. Error, II. 285. S	
*6 Geo. 1. c. 4 & 11.		Seducing artists, II. 732	
_____ 16.		South-sea company. Forgery, II. 1066	
_____ *18.		Mischief. Trees, II. 934	
_____ *21.		South-sea bubbles. Assurance company.	
_____ *23. }		Forgery, II. 820. 1067	
_____ s. 11. }		Sheriffs. Warrants. Writs, II. 599	
7 Geo. 1. st. 1. c. 31.	17 & 18 Geo. 3. c. 33.	Transportation. Theftbote. Reward. Rob-	
*8 Geo. 1. c. 2.	11 & 12 Geo. 3. c. 8.	bers, &c. II. 587. 1157. 1220. 5	
_____ 6.		Mischief. Manufactures, II. 1021	
_____ 19.		Bankrupts, I. 642	
_____ *22.		Lotteries unlawful, II. 803	
_____ c. 24. }		Quakers' affirmations, I. 297. II. 389. 563	
P. by 2 Geo. 2. c. 28. }		Game, II. 856	
_____ 25.		Forgery. Public funds, II. 1068	
*9 Geo. 1. c. 7.		Piracy, II. 466 to 469	
_____ *8.		Recognizance, I. 542. II. 312	
_____ *19.		Poor. Justices of Peace, I. 279. 413.	
_____ c. 22. }		II. 1129	
P. by 31 Geo. 2. c. 42. }		Naval stores, II. 515	
_____ *28.		Foreign lotteries. II. 817	
_____ 29.		Black Act. Killing deer, &c. II. 624. & <i>Ad.</i>	
11 Geo. 1. c. 4.	19 Geo. 2. c. 12.	Privileged places, II. 582	
_____ *22.		Copyholds, I. 573. 9.	
12 Geo. 1. c. 29. }		Corporation elections, I. 428. II. 180.	
P. by 21 Geo. 2. c. 3. }		Privileged places, II. 583.	
		Attornies. <i>Corpus cum causa</i> , Bail, II. 21.	
		100. 196	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— 31.		<i>Nisi Prius</i> , II. 254	
— *32.	23 & 24 Geo. 3. c. 22.	Suitors' money. Forgery. South-sea & East India bonds. II. 360 &c. 1067. 1092	
— *33.	23 & 24 Geo. 3. c. 22.	Suitors' money. II. 362	
GEORGE II.			
+ 1 Geo. 2. st. 2. c. 19.	27 Geo. 3. c. 30.	Mischief. Navigable rivers, II. 1035	
2 Geo. 2. c. 21.	10 Car. 1. st. 2. c. 19.	Striking. Poisoning. Trial, II. 1168.	
c. 22. s. 13. }	25 Geo. 2. c. 8. s. 8.	Mutual debts set off, II. 222.	
P. by 8 Geo. 2. c. 24. }	7 Geo. 2. c. 5.	Attornies, II. 14 to 31	
c. 23. }	35 Geo. 3. c. 29.	Bribery, &c. I. 73. 89. 90. 96. 102-3	
P. by 30 Geo. 2. c. 19. }	3 Geo. 2. c. 4.	Perjury. Larceny. Forgery, II. 608.	954. 1044
c. 25. }		Paupers. Gaming, II. 275. 793	
P. by 9 Geo. 2. c. 18. }	*31.	Oaths, I. 291	
*c. 28. s. 8 & 9.	29 Geo. 2. c. 6.	Juries, II. 233. to 252. & <i>Ad.</i>	
*31. }	*29.	Poor, I. 280	
3 Geo. 2. c. 25. }	30.	Master of the rolls, II. 367	
P. by 6 Geo. 2. c. 37. }		Juries, II. 234. 243	
*29.	10 5 Geo. 2. c. 8.	Idiots. Lunatics, II. 348	
30.	18. 27 Geo. 3. c. 27.	Mediterranean pass, II. 1093	
4 Geo. 2. c. 7.	21.	Naturalization, I. 304	
10	26. 11 Geo. 2. c. 6.	Pleadings, &c. in English, II. 228	
18.	28. 11 Ann. c. 2. 5 Geo. 2. c. 4.	Landlord. Tenant, I. 467. 535. II. 2. 136, &c.	
21.	32. 5 Geo. 2. c. 10.	Larceny. Lead, &c. II. 951	
26.		Justices of peace, I. 242. 7	
28.	19.	<i>Certiorari</i> . Recognizance, II. 1116. 7	
32.	25. 7 Geo. 2. c. 14.	Process in equity, II. 551	
5 Geo. 2. c. 18.		Actions for small debts, II. 197	
19.		Bankrupt, I. 615. to 653	
25.	11 & 12 Geo. 3. c. 8.	Mischief. Navigable rivers, II. 1036	
c. 27. }	27 Geo. 3. c. 30.	Pleadings, &c. in English, II. 229	
P. by 21 Geo. 2. c. 3. }	11 Geo. 2. c. 6.	Process. Pleadings, &c. II. 229	
c. 30. }	11 Geo. 2. c. 6.	Attornies, II. 17	
P. by 37 Geo. 3. c. 124. }	*14.	Bastards, I. 415	
c. 33. }	27.	Lotteries. Insurance, II. 817	
P. by 27 Geo. 2. c. 16. }	31.	Juries. Mischief. Banks. Hopbinds, II. 252. 1008. 1034	
6 Geo. 2. c. 6.	35.	Ship owners. Loss of goods, II. 120	
*14.	c. 37. }	Mortgages, I. 469. II. 339	
27.	P. by 31 Geo. 2. c. 42. }	Assault. Robbery, II. 1002	
31.	7 Geo. 2. c. 15.	Forgery, II. 1045	
35.	20.	Registry, I. 551. II. 1091	
c. 37. }	21. 21 Geo. 2. c. 12.	Copyright. Prints, I. 589	
P. by 31 Geo. 2. c. 42. }	22. 13 & 14 Geo. 3. c. 14.	Action against hundred, II. 1150	
6 Geo. 2. c. 15.	*3 Geo. 2. c. 6.	Mischief. Navigable rivers, II. 1036	
20.	13.	Mutual debts set off, II. 222	
21. 21 Geo. 2. c. 12.	16.	Elections. Parliament, I. 71	
22. 13 & 14 Geo. 3. c. 14.	*c. 20. }	Witchcraft. Sorcery, II. 444	
*3 Geo. 2. c. 6.	*24.	Oaths, I. 291	
13.	30.	Foreign service, II. 509	
16.	*26.	Mortmain, I. 510	
*c. 20. }	30. 11 Geo. 2. c. 7.	Bribery. Parliament, I. 103.	
P. by 27 Geo. 2. c. 16. }	36.		
*24.	38.		
30.			
9 Geo. 2. c. 5.			
*26.			
30. 11 Geo. 2. c. 7.			
36.			
38.			

+ The 5 Geo. 2. c. 33. for making this act (1 Geo. 2. st. 2. c. 19.) more effectual, is made perpetual by 27 Geo. 2. c. 16.

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
———— *cap. 45.		British ships, I. 383	
22 Geo. 2. c. 24.		Action against hundred, II. 1154	
———— *30.		United Brethren, II. 261	
———— *33.		Government of navy, I. 384	
———— *45.		Naturalization, I. 309.	
*c. 46. s. 3 to 19. }		Attornies. II. 18 to 24	
———— s. 34. }		Action against hundred, II. 1154	
———— s. 36 & 37. }		Quakers' affirmation, I. 297. II. 261 & <i>Ad.</i>	
23 Geo. 2. c. 11.	31 Geo. 3. c. 18.	Perjury, II. 608	
———— *13.	25 Geo. 3. c. 17.	Seducing artists, II. 734	
———— 26.		Attornies. Justices, II. 17. 1137	
———— 28.		Assent and consent, I. 323. 4.	
*24 Geo. 2. c. 11.		Clerks. Embezzlement, II. 925	
———— c. 18. s. 1 & 2. }	{ 17 & 18 Geo. 3. c. 45. }	Special juries, II. 251	
———— s. 3. }	{ 40 Geo. 3. c. 72. }	<i>Venire.</i> Penal actions, II. 235	
———— s. 4. }	25 Geo. 3. c. 31.	Challenge. Knight, II. 257	
———— s. 5. }		<i>Nisi prius.</i> Middlesex, II. 254	
———— *23.	21 & 22 Geo. 3. c. 48.	Alteration of the stile, I. 464	
———— 44.		Action against justices, II. 146	
———— 45.	17 Geo. 2. c. 6.	Larceny. Ship. Wharfs, II. 992	
———— 48. }	6 Geo. 1. c. 1.	Michaelmas term, II. 183	
———— s. 12. }		Sheriffs, I. 210	
———— 55.		Escape warrants, II. 1137	
———— c. 57. s. 9 & 10.	11 & 12 Geo. 3. c. 8.	Bankrupt, I. 635	
25 Geo. 2. c. 6.	25 Geo. 2. c. 11.	Witnesses. Wills, I. 582	
———— 10.		Larceny. Lead mines, II. 953	
———— 29.		Coroners. Fees, I. 239	
———— *30.	21 & 22 Geo. 3. c. 48.	Alteration of the stile, I. 467	
———— *c. 36. }	23 & 24 Geo. 3. c. 45.	Advertising reward for stolen goods, II. 598	
P. by 23 Geo. 2. c. 19. }		Prosecutors' expenses, II. 1209 & <i>Ad.</i>	
———— s. 11. }		Vagrants, II. 773	
———— s. 12. }		Murder. Execution, II. 904	
———— 37.	31 Geo. 3. c. 17.	Descent. Aliens, I. 488	
———— 39.		Game, II. 856	
26 Geo. 2. c. 2.		Justices of peace, I. 250	
———— 14.	3 Geo. 2. c. 16.	Plundering wrecks, Salvage, II. 958. 964	
———— 19.	23 & 24 Geo. 3. c. 48.	Justices of peace, I. 247	
———— 27.		Marriage Act, I. 402 to 409. II. 749.	
———— *33.			1093
———— *34.		Vagrants, II. 779	
*27 Geo. 2. c. 3.	3 Geo. 2. c. 28.	Prosecutors' expenses, II. 1210	
———— 15.		Threatening letters, II. 628	
———— 16.	3 Geo. 2. c. 16.	Justices of peace, I. 250	
———— 20.		Justices of peace, II. 1134	
*28 Geo. 2. c. 6.		Mortuaries, I. 594	
———— 12.		Game, II. 825	
———— 19.		Game, II. 836	
29 Geo. 2. c. 17.		Foreign service, II. 510	
———— 19.		Jurors. Inferior courts, II. 60	
———— 30.	27 Geo. 3. c. 52.	Receiving stolen lead, &c. II. 590	
———— 31.	11 Ann. c. 3.	Renewal. Leases. Infants, &c. II. 348	
———— *36.		Commons. Trees, I. 440. II. 628. 936	
*30 Geo. 2. c. 24. s. 1. }	26 Geo. 3. c. 37.	Swindling. False pretences, II. 1004	
———— s. 14. to 28. }		Gaming, II. 795	
*31 Geo. 2. c. 10.		Seamen. Forgery, II. 1083	
———— 11.		Apprentice. Servant, I. 279. 391	
———— 14.		Election. Parliament, I. 30-102-3	
———— *22.	25 Geo. 3. c. 37.	Forgery, II. 1044. 1068	
———— 35.		Madder. Larceny, II. 949	
———— *41.		Commons enclosed, I. 440	
*32 Geo. 2. c. 14. s. 9.		Forgery, II. 1093	
———— *28.	37 Geo. 3. c. 49.	Gaols. Insolvents, I. 226. II. 295, &c.	

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
33 Geo. 2. c. 20.		Elections. Parliament, I. 64	
— *27.		Fish, II. 875. 8	
GEORGE III.			
*1 Geo. 3. c. 1.		Civil list. Aggregate fund, I. 208	
— 13.		Justices of peace. Oaths, I. 248	
— *23.	21 & 22 Geo. 3. c. 50.	Judges' commissions, I. 159	
*2 Geo. 3. c. 15.		Impressing apprentices, I. 395	
— 19.		Game, II. 850. 6	
— *25.		Naturalization, I. 310	
— 29.		Game, II. 851	
3 Geo. 3. c. 15.	35 Geo. 3. c. 29.	Elections. Parliament, I. 43	
— *16.		Seamens' pensions, II. 1086	
— 24.		Elections. Parliament, I. 27	
4 Geo. 3. c. 10		Recognizances. Estreats, <i>Ad.</i>	
— *c. 12. s. 5.	27 Geo. 3. c. 30.	Mischief. Navigable rivers, II. 1038	
— 16.		Infant trustees, &c. II. 348	
— *25.		Forgery. Public funds, II. 1069	
— 33.	17 & 18 Geo. 3. c. 48.	Bankrupt, I. 616	
— *37.	3 Geo. 3. c. 34.	Mischief. Forgery. Cambrick, II. 1021. <i>Ad.</i>	
5 Geo. 3. c. 14.		Game. Fish, II. 843. 871	
— 17.		Leases, I. 521	
— *25.		Post office. Embezzlement, II. 926	
— *46.		Copyholds. Stamps, I. 579	
*6 Geo. 3. c. 25.		Apprentices, I. 393-7	
— 36.		Larceny. Mischief. Trees, II. 937. 951	
— *40.		Copyholds. Stamps, I. 579	
— 48.		Larceny. Mischief. Trees, II. 937. 950	
— 53. }		Oath of abjuration, I. 289. 291. 6	
— s. 3. }		High treason Trial, II. 1202	
7 Geo. 3. c. 9.	7 Geo. 3. c. 16.	Justices of peace. Oaths, I. 248	
— 21.		Justices of peace, I. 247	
— 29.		Sheriffs. Fees, <i>Ad.</i>	
— 38.		Copyright. Prints, I. 539	
— *50.	23 & 24 Geo. 3. c. 17.	Larceny. Post office, II. 925. 7. 955	
8 Geo. 3. c. 13.		Army. Ireland, I. 377	
— 15.		Pardon. Transportation, II. 1247	
9 Geo. 3. c. 16.		Limitation. King, II. 171	
— 29.	1 Geo. 2. c. 24.	Riot. Mischief, II. 636. 1007. 1020. 1030	
— *30.		Forgery. Seamen, II. 1083	
— *37.		Poor, I. 280	
— *41.		Larceny. Mischief. Trees, II. 939	
10 Geo. 3. c. 16.		Elections. Parliament, I. 103. to 122	
P. by 14 Geo. 3. c. 15.		Larceny. Dogs, II. 982	
— 18.	27 Geo. 3. c. 34.	Receiving stolen jewels, II. 595	
— 48.		Privilege. Parliament, II. 207	
— 50.		Lunatics. Leases. Renewal, II. 349	
11 Geo. 3. c. 20.	11 Ann. c. 3.	Counterfeiting coin, II. 491	
— 40.	23 & 24 Geo. 3. c. 50.	Elections. Parliament, I. 104 to 121	
— 42.		Marriages royal, I. 152	
12 Geo. 3. c. 11.		Piracy. Standing mute, II. 1197	
— 20.	13 & 14 Geo. 3. c. 16.	<i>Mandamus.</i> Costs, II. 181	
— 21.		Burning, &c. ships of war, &c. II. 519	
— 24.		Forgery. Stamps, II. 1079	
— 48.		Naturalization, I. 304	
13 Geo. 3. c. 21.		Naturalization, I. 310	
— 25.		Escape warrants, II. 1139. 1179	
— 31.		Larceny. Mischief. Turnips, &c. II. 949	
— 32.		Larceny. Mischief. Trees, II. 938	
— 33.		Game, II. 852	
— 55.		Gaols. Clergymen, I. 227	
— *58.		Witnesses. Offences. India, II. 263. 1175	
— *63.		Counterfeit money, II. 488	
— 71.	8 Ann. c. 6.	Highways, &c. I. 257. II. 1041	
— *73.	36 Geo. 3. c. 55.		

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— cap. 79.		Forgery. Bank of England, II. 1052	
— 80.		Game, II. 838	
— *81.		Commons enclosed, &c. I. 440	
— *82.		Hospitals. Bastards, I. 417	
— *84.		Highways. Turnpikes, I. 263. II. 1039	
*14 Geo. 3. c. 20.	23 & 24 Geo. 3. c. 34.	Prisoners. Fees, II. 1212	
— c. 42. }		Light coin seizable, II. 507	
P. by 39 Geo. 3. c. 75. }		Insurance upon lives, I. 602	
— 48.		Private madhouses, I. 190	
— *49. }		Elections. Parliament, I. 21-62	
P. by 26 Geo. 3. c. 91. }		Gaols, I. 226	
— 58.	18 Edw. 4. c. 2.	Mortgages. Interest. I. 606	
— 59.		Naturalization, I. 306	
— *79.		Standard weight of coin, II. 505	
— 84.		Weights for coin stamped, II. 507	
— 92.		Justices of peace, I. 590	
15 Geo. 3. c. 30.		Copyright of authors, I. 585	
— 39.		Game, II. 829	
— *53.		Civil list: Aggregate fund, I. 208	
16 Geo. 3. c. 30.		Annuities registered, I. 602	
*17 Geo. 3. c. 21.		Bills and notes, I. 612	
— 26.		Glebe houses, I. 331	
— *c. 30. }		Copyright. Prints, I. 589	
P. by 27 Geo. 3. c. 16. }		Forgery, II. 1045	
— *53.		Justices of peace. Costs. Prosecutors' expenses, II. 1135. 1209	
— 57.		Poor apprentices, I. 280. 394	
18 Geo. 3. c. 18.		Papists relieved, I. 490. II. 420-1. 7	
— *19.		Government of navy, I. 384	
— 47.		Non-conformists relieved, II. 392	
— 60.		Navigation act explained, I. 382	
*19 Geo. 3. c. 17.		Assaulting revenue officers, II. 678	
— 44.		Inferior courts. Special bail. Error, II. 61. 100. 196. 290	
— *48.			
— *69.			
— 70.	19 & 20 Geo. 3. c. 38.		
— c. 74. s. 1 & 2. }		Transportation, II. 1221	
In force to 25 March, }			
1813 by 46 Geo. 3. c. 28 }		Burning in the hand, &c. II. 1233	
— s. 3 & 4. }		Judges' lodgings. Assizes, II. 49	
P. by 39 Geo. 3. c. 45. }		Elections. Parliament, I. 23. 29	
— s. 70. }		Apprentices. Bastards, I. 394. 417	
P. by 39 Geo. 3. c. 46. }		Sunday kept holy, II. 455	
*20 Geo. 3. c. 17.		Marriage Act dispensed with, I. 409	
— 36.		Glebe houses, I. 332	
21 Geo. 3. c. 49.		Larceny. Copper, &c. II. 952	
— *53.		Receiving stolen pewter, &c. II. 945	
— *66.		Mischief. Manufactures, II. 1021	
— 68.		Elections. Parliament, I. 50	
— 69.		Elections. Parliament, I. 57	
*22 Geo. 3. c. 40.	{ 31 Geo. 2. c. 10. }	Receivers of stolen goods, II. 588	
— 41.	{ 3 Geo. 3. c. 34. }	Seducing artists, II. 735	
— 45.		Civil list, I. 209	
— 58.	23 & 24 Geo. 3. c. 45.	Poor, I. 280	
— *60.		Ireland, <i>see Preface.</i>	
— *82.		Actions. Excise officers, II. 148	
— *83.		Thieving vagabonds, II. 770	
23 Geo. 3. c. 23.		Offences in India, II. 1175	
— *70.		Elections. Parliament, I. 67	
— 88.			
*24 Geo. 3. st. 2. c. 25.			
— 26.	{ 11 Geo. 3. c. 10. }		
	{ 15 & 16 Geo. 3. c. 11. }		

English Statutes.	Irish Statutes.	Subject matter. Pages where found.
— *cap. 47.		Revenue officers, II. 149. 681
— *53.	23 & 24 Geo. 3. c. 23.	Forgery. Stamps. Plate, II. 1096
— *54.		Gaols, I. 228. 235
*56. s. 1 to 5. } In force to 25 March, 1813 by 46 Geo. 3. c. 28 } 25 Geo. 3. c. 18.	30 Geo. 3. c. 32.	Convicts transported, &c. II. 1222-3-4, 6 1234
— 35.	38 Geo. 3. c. 38.	Commission of <i>oyer and terminer</i> , II. 1105
— *67.	21 & 22 Geo. 3. c. 20.	King's debts, II. 322
— *80.		Seducing artists, II. 736
— 84.		Warrant of attorney, II. 282
	35 Geo. 3. c. 29.	Elections. Parliament, I. 70-2 3. 81. 98. 9 104. 115 6 & <i>Ad.</i>
*26 Geo. 3. c. 31.		Sinking fund, I. 204 & <i>Ad.</i>
— 38.		Imprisonment for small debts, II. 62
— *60.	27 Geo. 3. c. 23.	Ships registered, I. 383-4
— 86.		Ship owners. Loss of goods, II. 120
— 100.		Elections. Parliament, I. 44
27 Geo. 3. c. 1.		Lotteries unlawful, II. 809
— 11.	23 & 24 Geo. 3. c. 41.	Justices of peace, II. 1134
— *13.	33 Geo. 3. c. 34.	Civil list. Consolidated fund, I. 208
— *19.		Ships. Registry. Ireland, <i>Ad.</i>
— 29.		Competency of witnesses, II. 259
— 44.		Limitation. Defamation, II. 1126
*28 Geo. 3. c. 38.		Owling. Exporting sheep, &c. II. 671
— *48.		Apprentices. Chimney sweepers, I. 395
— 49.		Justices of peace, II. 1130
— 52.		Elections. Parliament, I. 105 to 126
— *55.		Mischief. Manufacture, II. 1022
— 56.		Policies of insurance, I. 602
*29 Geo. 3. c. 67.		Gaols. Gaolers, I. 230
*30 Geo. 3. c. 10.		Speaker of the house of commons, I. 58
— 35.		Elections. Parliament, I. 23
— 48.	36 Geo. 3. c. 31.	Judgment. Treason. Women, II. 1240
31 Geo. 3. c. 32.		Papists, I. 298. 491. II. 30. 53. 415. 421. 2. 3. 7. 564 & <i>Ad.</i>
— 35.	36 Geo. 3. c. 29.	Competent witnesses, II. 260
— *46.		Gaols. Penitentiary houses, II. 1234 & <i>Ad.</i>
— 51.		Fish, II. 879
32 Geo. 3. c. 1.		Elections. Parliament, I. 112
— *33.		Forgery. Seamen, II. 1083
— *34.	33 Geo. 3. c. 23.	Forgery. Seamen, II. 1084
— *45.		Idle disorderly persons, II. 768. 773-5-7 1213
— 48.		Justices of peace, <i>Ad.</i>
— *55.	37 Geo. 3. c. 27.	Sinking fund, I. 204 & <i>Ad.</i>
— 56.		Master. Servant, <i>Ad.</i>
— *57.		Apprentices, I. 396
— 58.	38 Geo. 3. c. 2.	<i>Quo warranto</i> information, II. 177
— 60.	33 Geo. 3. c. 43.	Libel. General verdict, II. 661
— *67.	33 Geo. 3. c. 23.	Forgery. Seamen, II. 1085
33 Geo. 3. c. 5. } P. by 39 Geo. 3. c. 53. }		Insolvent debtors, II. 295. & <i>Ad.</i>
— 13.	35 Geo. 3. c. 12.	Time of passing acts indorsed, I. 144
— 30.		Forgery. Public stock, II. 1069
— *35.		Poor, I. 280
— 46.		Forfeited estates, I. 187
— *54.		Friendly societies. Bastards, I. 280. <i>Ad.</i>
— 55.		Justices of peace, II. 1117. 1132
— 64.		Elections. Parliament, I. 70
c. 67. } P. by 41 Geo. 3. c. 19. }		Riot. Mischief. Ships, &c. II. 1032
*34 Geo. 3. c. 68.		Navigation act explained, I. 383
— 73.		Elections. Parliament, I. 93-4

English Statutes.	Irish Statutes.	Subject matter.	Pages where found.
— *cap. 74.		Highways, I. 260	
— *75.		Lands and rents of crown, I. 174. 5.	
— 85.		Elections. Parliament, I. 125	
*35 Geo. 3. c. 66.	37 Geo. 3. c. 54.	Larceny. Forgery. Public stock,	II. 925. 1071
— 67.		Bigamy, II. 752	
— *101.		Poor. Vagabonds, I. 279. II. 777 & <i>Ad.</i>	
— *102.		Examiners of weights, &c. II. 696	
36 Geo. 3. c. 7.		Treason, II. 470	
— 9.	11 Geo. 3. c. 7.	Riot. Mischief. Corn, II. 1015	
— *23.		Poor, I. 280	
— 59.		Elections. Parliament, I. 111-2	
— 83.	40 Geo. 3. c. 27.	Curates, I. 348 9. 350	
— 90.		Trustees. Stock. Annuities, II. 345	
37 Geo. 3. c. 28.		Bank of England notes, I. 613	
— *46.		Larceny. Forgery. Public stock, II. 1071	
c. 70. }	37 Geo. 3. c. 40.	Seduction of soldiers, &c. II. 521	
In force to 1 Aug. 1814 }			
by 47 Geo. 3. st. 1. c. 15. }			
— 85.		Insolvents, II. 299, 300	
— 122.		Forgery. Public stock, II. 1070	
— 123.	27 Geo. 3. c. 15. s. 6 & 7.	Unlawful oaths, II. 522	
— 126.		Counterfeiting coin, II. 492-3, &c.	
— 127.	38 Geo. 3. c. 20.	Meeting of parliament, I. 145-6	
— *140.		Government of navy, I. 384	
— 143.	27 Geo. 3. c. 46.	Examiners of weights, II. 696	
38 Geo. 3. c. 52.		Counties of cities, &c. Trial, II. 215, 1180	
— 67.		Exporting base coin. II. 504	
— *69.		Gold wares. Stamp. Forgery, II. 1097	
— 71.		Proprietorship in busts, &c. <i>Ad.</i>	
— *78.	38 Geo. 3. c. 7.	Printers of newspapers, &c. <i>Ad.</i>	
— 87.		Administration, I. 659	
*38 Geo. 3. c. 17. }		Cast plate glass. Forgery. II. 1068	
Local & personal act }			
39 Geo. 3. c. 34.		Game. II. 850	
— 37.		Treasons, &c. on sea, II. 1107	
— 79.	33 Geo. 3. c. 29.	Seditious societies, &c. II. 644. 662	
— 85.	29 Geo. 2. c. 16.	Larceny. Servants. Clerks, II. 924	
— 113.		Judges made serjeants, II. 46	
39 Geo. 3. st. 2. c. 14.		Meeting of parliament, I. 145	
39 & 40 Geo. 3. c. 41.		Leases. Clergy. Colleges, I. 524	
— 42.		Bills. Notes. Good Friday, I. 609	
— 50.		Vagabonds. Game, II. 771	
— 56.		Trust monies. Entails, II. 346	
— *67.	40 Geo. 3. c. 38.	Union. Ireland, I. 15 to 18. 20. 66. 143, 7.	
		150, 1, 4, 6. 201 to 208. 356, 7, 8.	
		566. II. 43. 58	
— *77.		Stealing, &c. Coals, II. 993. 1031	
— *88.		Escheats. Private estate of king, &c. I. 489	
		& <i>Ad.</i> 11.	
— *89.		Naval, &c. stores, II. 516. 1087	
— 93.		Treason. Trial, II. 1202	
— 94.		Custody of lunatics, II. 1103, & <i>Ad.</i>	
— 98.		Trusts for accumulation of money, I. 473	
— 106.		Combination, II. 705	
*41 Geo. 3. st. 1. c. 9.		Poor, I. 780	

✂ A supplemental table will be subjoined, referring to the pages where such of the statutes in this first table, as are contained in the Addenda, may be found; and supplying also a few omissions.

Post Union Acts or Imperial Statutes.

U. K. means that the Act extends to the United Kingdom. G. B. Great Britain. E. England. E. & W. England and Wales. E. & c. England, Wales, and Berwick. S. Scotland. and I. Ireland.

Post Union Acts.	Their extent.	Subject matter. Pages where found.
*41 Geo. 3. st. 2. c. 23.	E.	Poor, I. 280
_____ 24.	G. B.	Riot. Mischief. Mills, II. 636
_____ *25.	I.	Master of the rolls, I. 159. II. 367
_____ *32.	G. B.	Combination. Wages, II. 710
_____ 52.	U. K.	Elections. Parliament, I. 58
_____ 57.	U. K.	Forgery. Bankers, II. 1047
_____ 63.	U. K.	Ecclesiastics. Parliament, I. 53
_____ *78.	E.	Constables' expenses, I. 257
_____ 79.	E.	Notary public, II. 54.
_____ 85.	E.	Justices of peace. Fines, I. 591
c. 90. s. 1 to 4 }	U. K.	Process for king's debts, II. 390
s. 5 to 8. }		Decrees. Orders. England. Ireland, II. 359
s. 9. }		Printed statutes evidence, II. 259
_____ *91.	G. B.	Forgery. Excise, II. 1090
_____ 101. s. 23.	U. K.	Elections. Parliament, I. 65
_____ 105.	I. & S.	Private acts, I. 145
_____ 107.	U. K.	Copyright, I. 584
_____ *109.	E.	Enclosure of commons, I. 440. II. 1008
*42 Geo. 3. c. 38.	G. B.	Adulteration of beer, <i>Ad.</i> 152
_____ *46.	E.	Poor, I. 394
_____ *61.	I.	Ships registered, I. 384
_____ 62.	E.	Elections. Parliament, I. 93
_____ *63.	U. K.	Post office. Forgery, II. 1081
_____ 67.	G. B.	Stealing, &c. turnips, &c. II. 949
_____ *68.	I.	Yeomanry. Ireland, I. 372
_____ *71.	G. B.	Sinking fund. I. 204
_____ *72.	E.	Miners. Cornwall. Devon, <i>Ad.</i> 23.
_____ *73.	U. K.	Apprentices, I. 397
_____ *74.	E.	Poor, I. 280
_____ *81.	G. B.	Post office. Larceny, II. 926. 955
_____ 84. }	G. B.	Elections. Parliament, I. 116. 121
P. 47 Geo. 3. st. 1. c. 1 }	G. B.	Foreign offences. Trial, II. 1176
c. 85. s. 1 to 5. }		Actions against officers, II. 145
s. 6. }		English militia, I. 361
_____ *90.	E.	Elections, Parliament, I. 126 to 139
_____ 106.	I.	Game, II. 829. 833, &c.
_____ 107.	E. & c.	Land tax. Elections. Forgery, I. 25. II. 1076
_____ *116.	G. B.	Lotteries. Gaming, II. 815
_____ 119.	G. B.	Convicts transported, II. 1226
43 Geo. 3. c. 15.	G. B.	Militia, I. 363
_____ 19.	G. B.	Election. Parliament, I. 51
_____ 25.	I.	Roman catholics, II. 423
_____ 30.	E. & c.	Special bail. Costs. Execution, II. 202,
_____ 46.	E. & I.	5, 6. 274. 319
_____ *53.	I.	Assimilation of process, II. 198
_____ † *55.	U. K.	Defence of the realm, I. 376
_____ 58	E. & I.	Poisoning. Murder of bastards. Shooting
		at. Stabbing. Arson, II. 903, 9. 920

† This act in force during the present hostilities with France.

Post Union Acts.	Their extent.	Subject matter.	Pages where found.
— *cap. 59.	E.	Surveyors of bridges, I. 276, 7	
— 61.	E.	Wandering soldiers, &c. II. 769	
— *68.	G. B.	Customs. Forgery, II. 1089	
— 74.	G. B.	Elections. Parliament, <i>Ad.</i> 9	
— 75.	E. & I.	Lunatics. Chancery, II. 332	
c. 79. s. 1 to 4. }	I.	Casting away, &c. ships, &c. II. 1032	
s. 5. }		Accessaries. Trial, II. 1180	
— *84.	E.	Clergy farmers, resident, I. 312, 3, 4.	326. to 330
— 86.	I.	Combination, II. 725	
— *106.	I.	First fruits. Glebe-houses, I. 343	
— *107.	G. B.	First fruits. Alienation, <i>Ad.</i> 21. 42	
— *108.	E. & I.	Churches. Glebe-houses, &c. I. 353	
— 109.	E.	Clergy residence, I. 312	
— *110.	E.	Poor, I. 280	
c. 113. s. 1 to 4. }	E.	Casting away, &c. ships, II. 1032	
s. 5 & 6. }		Accessaries. Trial, II. 1173, 1180	
— †*121.	U. K.	Yeomanry. Volunteers. I. 373	
c. 139. s. 1 & 2. }	U. K.	Forgery, II. 1064	
s. 3 to 9. }		Counterfeiting coin, II. 501	
— 140.	E.	<i>Habeas Corpus</i> . Witnesses, II. 100	
— 141.	U. K.	Actions against justices, II. 145	
— 143.	I.	Actions against justices, II. 148	
— *156.	G. B.	Prisage. Butlerage, I. 193	
— *157.	G. B.	Smuggling, <i>Ad.</i> 116	
44 Geo. 3. c. 43.	U. K.	Deacons' and priests' orders, I. 322	
— 52.	E.	Highways. Statute duty, I. 262	
— *54.	G. B.	Yeomanry. Great Britain, I. 370	
— 71.	U. K.	Dollars, counterfeiting, II. 496	
— *77.	E. &c.	Marriage act dispensed with, I. 409	
— 92.	U. K.	Escape warrant, II. 1140, 1179	
— *98.	G. B.	Stamps. Forgery, II. 1078	
— 102.	E. & I.	<i>Habeas corpus</i> . Witness, II. 101	
*45 Geo. 3. c. 10.	G. B.	Quarantine, II. 738, 1095	
— 41.	I.	Notes, &c. under 20s. I. 611	
— 42.	I.	Counterfeiting tokens, II. 499	
— *43.	I.	Post roads, I. 272	
— *54.	E.	Poor, I. 280	
— 59.	I.	Elections. Parliament, I. 26. 31. 2. 7. 41.	83 4
— 66.	G. B.	Larceny. Mischief, Trees, II. 940	
— †*72.	U. K.	Seamen. Prize act, II. 464, 1082	
— 75.	G. B.	Register. Chancery, II. 370	
— 89.	G. B.	Forgery, II. 1045, 9, &c.	
c. 92. }	U. K.	Escape warrants. Bail, II. 1144.	
s. 3 & 4. }		Criminal process served, II. 1208	
— 101.	E.	Advowsons. Mortmain, I. 511	
— *111.	I.	County dispensaries, I. 288	
— *121.	U. K.	Smuggling, &c. II. 686	
— 124. s. 1-2-3. }	G. B.	Bankrupt. I. 617. 8.	
s. 4 to 8. }		Proceeding against privileg'd persons, II. 356	
46 Geo. 3. c. 37.	U. K.	Witnesses. Questions legal, II. 260	
— *45.	E. & I.	Ordnance. Forgery, II. 1089	
— 54.	U. K.	Trial of offences upon sea, <i>Ad.</i> 133	
— *60.	I.	Clergy. Boulter's legacy, <i>Ad.</i> 11	
— *64.	I.	Warrants of attorney. Forgery, II. 282	1080
— *69.	U. K.	Personating soldiers, &c. II. 1087	
— *75.	E.	Excise. Forgery, II. 1088	
— *76.	E.	Stamps. Forgery. II. 1089	

† In force until 6 months after peace with France.

‡ Some clauses of this act (45 Geo. 3. c. 72.) are perpetual, and others specially continued by s. 123.

Post Union Acts.	Their extent.	Subject matter.	Pages where found.
— *cap. 79.	E.	Prisage. Butlerage, I. 193	
— *83.	E.	Post office. Forgery, <i>Ad.</i> 126	
— *90.	E.	Defence of the realm, I. 373	
— *94.	I.	Prisage. Butlerage, I. 193	
— *95.	I.	Hospitals, I. 285-8	
— *96.	I.	Roads. Overseers, I. 266	
— *98.	G. B.	Quarantine. Forgery, II. 1095	
— *106.	I.	Revenue, II. 148-9-150. 691. 1129	
— *122.	I.	Charitable donations, Schools, II. 336	
— *125.	G. B.	Yeomanry, I. 370	
— *134.	I.	Post roads, I. 267	
— 135.	U. K.	Bankrupts, I. 642-3-4. 653	
— *142.	G. B.	Surveyor G. Woods. Forgery, II. 1089	
— *150.	G. B.	Customs. Forgery, II. 1089	
47 Geo. 3. st. 1. c. 1.	U. K.	Elections. Parliament, I. 118.	
— 14.	I.	Elections. Parliament, I. 105. 127, 9. 135, 7, 9.	
— 43.	I.	Servants' wages, I. 390	
— 44.	I.	Fever hospitals, I. 287	
47 Geo. 3. st. 2. c. 8	U. K.	Copyhold. Recovery, I. 580	
— *15.	I.	Stamp. Plate. Forgery, II. 1099	
— *24.	E.	King. Queen. Alienation, <i>Ad.</i> 42	
— 40.	U. K.	Suits. Equity. Privileged persons, II. 357.	
— *50.	I.	Hospitals, I. 287	
— 54. }	I.	Arms act. <i>Ad.</i> 97	
In force to 20th June, 1812, &c. by 50 Geo. 3. c. 109.			
— *59.	E.	Post office. Forgery, <i>Ad.</i> 117	
— *66.	U. K.	Smuggling, II. 687	
— *71.	G. B.	Militia, I. 364	
— 74.	U. K.	Traders' heirs, devisees, II. 337	
*48 Geo. 3. c. 1.	G. B.	Exchequer bills. Forgery, II. 1074	
— 31.	I.	Counterfeiting tokens, II. 500	
— 47.	I.	Limitation against king, II. 171	
— 58. }	G. B.	Indictment. &c. Process, <i>Ad.</i> 76-137-8	
s. 3. }			
— *65.	I.	Bail-bond assigned, II. 331	
— *66.	I.	Glebes, &c. First Fruits, I. 341	
— *73.	E.	Clergy. Residence, I. 330	
— *76.	U. K.	Leases of crown lands, I. 175	
— *82.	I.	Loans. Forgery, II. 1075	
— 88.	E.	Excise. Forgery, II. 1090	
— 93.	E.	Negotiation of small notes, &c. I. 609.	
— *96.	E & W.	Game, II. 826	
— 106.	U. K.	Asylum for lunatics, I. 191	
— *111.	E.	Continuing acts, <i>Ad.</i> 10	
— 123.	E, &c.	Local militia, I. 371	
— *127.	E, &c.	Execution. Insolvents, II. 307	
— 129.	E.	Marriage act dispensed with, I. 409	
— *130. }	G. B.	Stealing from person, II. 999	
In force to 30 June, 1815, &c.			
— *139.	U. K.	Salvage, II. 967	
— *142.	G. B.	Lottery. Insurance. Forgery, II. 811. 1077	
— 144.	E.	Annuities. Forgery, II. 1075	
— *149.	G. B.	Larceny. Oysters, II. 881	
49 Geo. 3. c. 6.	G. B.	Stamps. Forgery, II. 1079	
— 13.	I.	Insolvent debtors, <i>Ad.</i> 82	
— 28.	E.	Forgery. Bank notes, &c. <i>Ad.</i> 124	
— *35.	U. K.	Attornies, <i>Ad.</i> 56.	
— 36.	I.	Navy pensions. Forgery, <i>Ad.</i> 127	
— *40.	G. B.	Hospitals, <i>Ad.</i> 18	
— 41.	U. K.	Militia local, <i>Ad.</i> 26	
		British ships, <i>Ad.</i> 28	

Post Union Acts.	Their extent.	Subject matter.	Pages where found.
— *cap. 45.	U. K.	Mariners' half pay. Forgery, <i>Ad.</i> 126	
— *53.	G. B.	Militia, <i>Ad.</i> 22	
— *57.	I.	Adulteration of beer, <i>Ad.</i> 153	
— 68.	E.	Bastardy, <i>Ad.</i> 32	
— *81.	G.	Satmps, Paper. Forgery, <i>Ad.</i> 128	
— *83.	I.	Forfeited recognizances, <i>Ad.</i> 129	
— *84.	I.	Roads. Ireland, <i>Ad.</i> 15 to 18	
— 91.	E.	Justices of assize, <i>Ad.</i> 61	
— *101.	I.	Fees. Prisoners. Civil bills, <i>Ad.</i> 61-147	
— *103.	I.	Churches. Glebe houses, <i>Ad.</i> 11	
— *108.	G.	Navy. Forgery, <i>Ad.</i> 126	
— *113.	G. B.	Volunteers. Forgery, <i>Ad.</i> 127	
— *116.	I.	Revenue commissioners, <i>Ad.</i> 136	
— 118.	U. K.	Seats in parliament, <i>Ad.</i> 7	
— *120.	I.	Militia, <i>Ad.</i> 23	
— 121.	E. & I.	Bankrupts, <i>Ad.</i> 48 to 56	
— *122.)			
In force to 20 June, 1816. }	E. &c.	Salvage, <i>Ad.</i> 122-3	
— *124.	E.	Poor. Vagrants, <i>Ad.</i> 18	
— 126.	U. K.	Sale of offices, <i>Ad.</i> 36 to 41	
*50 Geo. 3. c. 29.	I.	Roads. Ireland, <i>Ad.</i> 17	
— 30.	I.	Fees of coroners, <i>Ad.</i> 15	
— 47.	I.	Insolvent debtors, <i>Ad.</i> 83	
— *49.	G. B.	Poor. <i>Ad.</i> 18	
— *50.	E.	Poor, <i>Ad.</i> 18	
— 51.	G. B.	Bastardy, <i>Ad.</i> 88	
— *52.	G. B.	Poor, <i>Ad.</i> 18	
— 59.	U. K.	Larceny. Public money, <i>Ad.</i> 121	
— *65.	E.	Surveyor. Woods, &c. Forgery, <i>Ad.</i> 123	
— *73.	G. B.	Baking on Sunday, <i>Ad.</i> 87	
— *101.	I.	Prisage. Butlerage, <i>Ad.</i> 12	
— 102 s. 1. to 4.)	I.	Administering unlawful oaths, <i>Ad.</i> 93	
— s. 5 & 6. }	I.	Witnesses maimed, &c. <i>Ad.</i> 103	
— s. 7 to 10. }	I.	Examining suspected persons, <i>Ad.</i> 104	
— *103	I.	Prisons. Gaolers, &c. <i>Ad.</i> 15	
— 109.)			
In force to 20 June 1812, &c. }	I.	Arms act, <i>Ad.</i> 99 to 103	
† *51 Geo. 3. c. 8.	U. K.	Mutiny act. Army, <i>Ad.</i> 27. 30	
— † *9.	U. K.	Mutiny act. Navy, <i>Ad.</i> 28. 31	
— *15.	G. B.	Loans. Forgery, <i>Ad.</i> 125	
— *16.	G. B.	Annuities. Forgery, <i>Ad.</i> 125	
— 20.	G. B.	Militia. Apprentices, <i>Ad.</i> 31	
— *22.	I.	Loan. Forgery, <i>Ad.</i> 125	
— *23.	U. K.	Slave trade. Felony, <i>Ad.</i> 113	
— *26.	G. B.	Loan. Forgery, <i>Ad.</i> 125	
— *30.	I.	Militia, <i>Ad.</i> 26	
— 37.	U. K.	Lunatics. Marriage, <i>Ad.</i> 31	
— 38.	I.	Embezzlement. Clerks, &c. <i>Ad.</i> 112	
— 39.	I.	Larceny. Bleaching grounds, <i>Ad.</i> 124	
— 41.	G. B.	Larceny. Bleaching grounds, <i>Ad.</i> 123	
— *49.	G. B.	Annuities. Forgery, <i>Ad.</i> 125	
— 51.	I.	Prisage. Butlerage, <i>Ad.</i> 12	
— *61.	G. B.	War taxes. Forgery, <i>Ad.</i> 125	
— *63.	I.	Convicts. Hard labour, <i>Ad.</i> 149	
— 65.	G. B.	Seditious printers, <i>Ad.</i> 112	
— 77.	I.	Elections. Parliament. <i>Ad.</i> 3 to 7	
— *79.	E.	Lunatic asylum, <i>Ad.</i> 11. 35	
— 80.	G. B.	Parish apprentices, <i>Ad.</i> 30	
— 99.	G. B.	Land tax. Elections, <i>Ad.</i> 3.	
— 100.	G. B.	Trials. Counties of cities, &c. <i>Ad.</i> 142	

† These mutiny acts are in force in Great Britain to 25 March 1812; and in Ireland, to 1 April 1812.

Post Union Acts.	Their extent.	Subject matter.	Pages where found.
110.	U. K.	Counterfeiting tokens, <i>Ad.</i> 89	
*113.	U. K.	Lottery act, <i>Ad.</i> 13	
*114.	U. K.	Miners. Cornwall. Devon, <i>Ad.</i> 23	
115.	E & I.	Churches. Glebes, <i>Ad.</i> 22	
*118.	U. K.	Militia interchange, <i>Ad.</i> 23	
120.	E.	Game, <i>Ad.</i> 119	
124. }			
In force to 1 Nov. }	E, &c.	Process. Special bail, <i>Ad.</i> 73	
1816, &c. }			
127. }			
In force to 25 March, }	G. B.	Depreciating bank notes, <i>Ad.</i> 92	
1812. }			

A

SUPPLEMENTAL TABLE

OF

The English Statutes,

CONTAINED IN THE ADDENDA,

REFERRING TO THE PAGES WHERE THEY MAY BE FOUND.

§ Those marked thus were omitted in the first table.

9 Hen. 3. c. 12 & 13.	<i>Addenda</i> p. 61	6 Edw. 1. c. 6.	<i>Addenda</i> p. 65
_____ c. 28.	_____ 77	Expos: stat. Glouc. 6 Edw. 1.	_____ 66
20 Hen. 3. c. 1.	_____ 66	13 Edw. 1. st. 1. c. 9.	_____ 66
_____ c. 2.	_____ 41	_____ c. 15.	_____ 76
52 Hen. 3. c. 9.	_____ 59	§17 Edw. 1. c. 7.	_____ 60
_____ c. 14.	_____ 78	20 Edw. 1. st. 3.	_____ 64
_____ c. 18.	_____ 70	§28 Edw. 1. st. 3. c. 6.	_____ 60
_____ c. 22.	_____ 2	_____ c. 10.	_____ 95
_____ c. 25.	_____ 119	_____ c. 15.	_____ 71
_____ §c. 28.	_____ 153	_____ c. 16.	_____ 71
§3 Edw. 1. c. 8.	_____ 78	9 Edw. 2. st. 1. c. 6.	_____ 63
_____ §c. 16.	_____ 56	_____ c. 13.	_____ 19
_____ c. 41.	_____ 77	_____ c. 14.	_____ 19
_____ c. 45.	_____ 70	12 Edw. 2. st. 1. c. 5.	_____ 71
_____ c. 46.	_____ 70	17 Edw. 2. st. 1. c. 14.	_____ 150
_____ c. 49.	_____ 66	18 Edw. 2.	_____ 135
§4 Edw. 1. st. 3. c. 1 & 2.	_____ 42	1 Edw. 3. st. 1. c. 5.	_____ 71

Supplemental Table.

XXXV

§1 Edw. 3. st. 2. c. 8.	Addenda p. 78	5 Eliz. c. 5. s. 8 & 11.	Addenda p. 28
2 Edw. 3. c. 4.	14	— c. 10.	120
— c. 11.	60	1 Jac. 1. c. 5.	95
— c. 17.	64	— c. 10.	95
5 Edw. 3. c. 11.	144	21 Jac. 1. c. 3. s. 1 & 3.	3
— c. 12.	73	16 Car. 1. c. 20.	2
— c. 13.	72	17 Car. 2. c. 6.	78
— c. 14.	153	19 Car. 2. c. 5.	64
9 Edw. 3. st. 1. c. 3.	69	§3 W. & M. c. 9. s. 3.	142
§14 Edw. 3. st. 1. c. 14.	43	4 & 5 W. & M. c. 22. s. 4.	143
§18 Edw. 3. st. 1.	143	8 & 9 W. 3. c. 11. s. 2.	79
§18 Edw. 3. st. 2. c. 5.	143	— s. 26. s. 8.	89
20 Edw. 3. c. 1 & 2.	61	— §c. 27. s. 13.	63
— c. 4 & 5.	152	11 & 12 W. 3. c. 7.	131-2-3.
31 Edw. 3. st. 4. c. 1.	19-60	1 Ann. st. 1. c. 31 & 32.	151
34 Edw. 3. c. 16.	46	§1 Ann. st. 2. c. 6. s. 2 & 3.	80
37 Edw. 3. c. 2.	71	5 Ann. c. 6. s. 2 & 3.	148
1 Ric. 2. c. 2.	2	— c. 25.	151
§2 Ric. 2. st. 2. c. 1.	19	6 Ann. c. 34.	151
9 Ric. 2. c. 3.	79	9 Ann. c. 204. s. 8.	10
13 Ric. 2. st. 1. c. 17.	64	1 Geo. 1. st. 2. c. 48. s. 4.	124
15 Ric. 2. c. 12.	2	§4 Geo. 1. c. 11. s. 9.	133
16 Ric. 2. c. 2.	2	9 Geo. 1. c. 22. s. 11.	119
17 Ric. 2. c. 10.	134	3 Geo. 2. c. 25. s. 20.	145
1 Hen. 4. c. 8.	65	12 Geo. 2. c. 27.	134
2 Hen. 4. c. 7.	78	19 Geo. 2. c. 28. s. 13.	4
4 Hen. 4. c. 23.	79	20 Geo. 2. c. 37.	14
5 Hen. 4. c. 8.	77	22 Geo. 2. c. 46. s. 37.	78
— c. 10.	136	25 Geo. 2. c. 36. s. 13 & 14.	95
9 Hen. 4. c. 5.	65	4 Geo. 3. c. 10.	146
8 Hen. 6. c. 26.	65	— c. 37. s. 15.	128
9 Hen. 6. c. 4.	72	7 Geo. 3. c. 29.	86
— c. 11.	152	25 Geo. 3. c. 84. s. 6.	9
10 Hen. 6. c. 4.	72	26 Geo. 3. c. 31. s. 21.	126
18 Hen. 6. c. 9.	72	27 Geo. 3. c. 19. s. 1.	28
20 Hen. 6. c. 9.	145	31 Geo. 3. c. 32. s. 23.	151
31 Hen. 6. c. 9.	86	— c. 46. s. 15.	14
1 Ric. 3. c. 2.	2	32 Geo. 3. c. 48.	130
1 Hen. 7. c. 4.	136	— c. 55. s. 9.	126
3 Hen. 7. c. 1. s. 1.	1	— c. 56.	28
11 Hen. 7. c. 1.	88	33 Geo. 3. c. 5. s. 4 & 5.	82
21 Hen. 8. c. 3.	77	— c. 54. s. 25.	35
25 Hen. 8. c. 3. s. 3.	141	35 Geo. 3. c. 101. s. 6.	35
27 Hen. 8. c. 4.	130	38 Geo. 3. c. 71.	46
35 Hen. 8. c. 3.	11	— c. 78.	106
3 & 4 Edw. 6. c. 1.	135	39 & 40 Geo. 3. c. 88.	11
5 & 6 Edw. c. 10.	142	— c. 94. s. 1 & 2.	144
— c. 11. s. 11.	94		

A

TABLE

OF

The Irish Statutes,

&c. &c. &c.

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
EDWARD II.			
3 Edw. 2. c. 4.		Feoffment. Forfeiture, <i>Ad.</i> 151	
— 5.		Justices of assize, II. 47	
HENRY VI.			
7 Hen. 6.	27 Eliz. c. 7.	Jurors' additions, II. 237	
18 Hen. 6. c. 1.		English statutes, I. 187 <i>vide Preface.</i>	
— 2.		Comrick. Treason, II. 471	
— 3.		Free quarters. Treason, II. 471	
— 4.		Protections, II. 214	
25 Hen. 6. c. 3.		Extortion, <i>Ad.</i> 96	
— 7.		Labourers. Idleness, II. 785	
— 8.		Amercements. Lords, <i>Ad.</i> 78	
28 Hen. 6. c. 2.		Information. Recognizance, II. 1165	
— 3.		Homicide justifiable, II. 901	
— 4.		Privilege. Officers of courts, <i>Ad.</i> 60	
32 Hen. 6. c. 1.		Provisors, II. 531	
— 2.		Coroners' inquests, I. 238	
33 Hen. 6. c. 1.		Exigents. Outlawry, <i>Ad.</i> 143	
36 Hen. 6. c. 1.		Clergy. Residence, I. 331	
37 Hen. 6.	18 Hen. 6. c. 1.	Patents dated, I. 566	
38 Hen. 6.		Officers of exchequer, II. 38	
EDWARD IV.			
3 Edw. 4. c. 1.		Privilege. Parliament, II. 208	
— 2.		Attornies, II. 29	
— 3.		Clipped money, II. 488	
*5 Edw. 4. c. 1.		Uses, I. 537	
— 3.		English habit, &c. II. 792	
— *5.		Constables, I. 252	
7 Edw. 4. c. 2.		Provisors, II. 531	
— 3.		Provisors, II. 532	
— 4.		Court of common pleas, II. 37	
8 Edw. 4. c. 1.		English statutes, <i>vide Preface.</i>	
— 2.		Regrators of corn, II. 702	
13 Edw. 4. c. 1.		Distresses appraised, II. 4	
— 2.		Elections. Parliament, I. 62	
HENRY VII.			
10 Hen. 7. c. 3.		Receiving rebels. Treason, II. 471	
— 4.		Parliament, <i>vide Preface.</i>	
— 5.		Provisors, II. 532	

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
— *cap. 6.		Maintenance, II. 602	
— 7.		Corporations. Freemen. Bye-laws, I. 422-4	
— *9.		Constables, I. 252	
— *10.		Military force, I. 360	
— 11.		Hue and cry. Murder. Amends, II. 1155	1189
— 12.		Keeping ordnance, &c. II. 659	
— 13.		Stirring Irishry. Treason, II. 471	
— 20.		Maintenance, II. 603	
— 22.		English statutes, <i>vide Preface</i> .	
14 Hen. 7.		English statutes, <i>vide Preface</i> .	
HENRY VIII.			
13 Hen. 8. c. 1.		Burning of corn, &c. II. 471	
— 3.		Jurors. Attaint, II. 279	
25 Hen. 8. c. 1.		Lezers of corn, II. 786	
28 Hen. 8. c. 2.	{ 25 Hen. 8. c. 22.	Marriages, I. 403	
— *5.	26 Hen. 8. c. 1.	King head of the church, I. 164	
— 7.		Treason, II. 471-2. 1171-4. 1242	
— *8.	26 Hen. 8. c. 3.	First fruits, I. 166	
— 10.	21 Hen. 8. c. 11.	Restitution. Felons, II. 1213-4	
— 13.	5 Eliz. c. 1.	Canons. Foreign jurisdiction, I. 165. II. 542	
— *14.	26 Hen. 8. c. 3.	Twentieth part, I. 167	
— *15.		English language. Schools, &c. <i>Ad.</i> 20	
— *16.	27 Hen. 8. c. 28.	Monasteries dissolved, I. 319	
— 18.	21 Hen. 8. c. 5.	Administration. Probate, I. 655, &c.	
— *19.	25 Hen. 8. c. 21.	First fruits. Dispensations, &c. I. 174.	318. 427. II. 534
— 21.		Limitation. Penal actions, II. 117	
— 22.		Lezers of corn. Idleness, II. 786	
— 24.		Idleness. Children, II. 785	
33 Hen. 8. st. 1. c. 1.		Treason. King's title, II. 472	
— 3.	21 Hen. 8. c. 2.	Plaint in assize, <i>Ad.</i> 77	
— 4.		Consanguinity. Challenge, II. 253	
— 5.	21 Hen. 8. c. 7.	Servants embezzling, II. 923-4	
— 6.	32 Hen. 8. c. 38.	Marriages, I. 402	
— 7.	21 Hen. 8. c. 19.	Replevin. Pleading. Costs, II. 111-2	
— 9. }		Servants' wages, I. 390	
P. by 11 Eliz. st. 1. c. 5. }			
— 10.	{ 31 Hen. 8. c. 1.	Joint-tenants, &c. Partition, I. 475	
— 11.	32 Hen. 8. c. 32. }	Falsifying recoveries, I. 577	
— 12.	21 Hen. 8. c. 15.	Tithes, I. 573. II. 77. 135	
— 13.	32 Hen. 8. c. 7.	Recoveries. Replevin, I. 576	
— 14.	7 Hen. 8. c. 4.	Vicarages erected, I. 320	
33 Hen. 8. st. 2. c. 1.		Elections. Parliament, I. 22. 63	
— c. 3. }	32 Hen. 8. c. 30.	Jeofails. Warrant of attorney, II. 281	
P. by 11 Eliz. st. 1. c. 5. }			
— s. 3. }		Admission to bar, II. 33	
— 4.		Patents, <i>Ad.</i> 46	
— *5.	31 Hen. 8. c. 13.	Monasteries dissolved, I. 319. 437	
PHIL. & MARY.			
3 & 4 Ph. & M. c. 5.		Cottiers. Idleness, II. 785	
— 6.		Goods stolen restored, II. 1214	
— 8.	1 & 2 Ph. & M. c. 8.	Abbey lands. <i>Præmunire</i> , II. 535	
— *11.	1 & 2 Ph. & M. c. 10.	Treason. Misprision, II. 544. 5. 1205	
— 14.	1 Mar. st. 3. c. 1.	Succession to crown, I. 152	
ELIZABETH.			
2 Eliz. c. 1.	1 Eliz. c. 1.	Heresy. Ecclesiastical jurisdiction. Oath of supremacy, I. 326. II. 373. 536. 550	
— 2.	1 Eliz. c. 2.	Service and sacraments, II. 376-9	

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
— c. 3.	1 Eliz. c. 4.	First fruits, I. 167	
— 4.	25 Hen. 8. c. 20.	Mode of appointing bishops, I. 316	
† 11 Eliz. st. 3. c. 1.		Treason, II. 472	
— 2.	32 Hen. 8. c. 21.	Trinity term. Returns, II. 183	
— 4.		Fish, II. 890	
— 5.		Fish. Nuisances, <i>Ad.</i> 117	
12 Eliz. st. 1. c. 2.	13 Eliz. c. 6.	Patents exemplified, II. 230	
— *c. 4.		Irish tenures. Composition rents, I. 177	
† 27 Eliz. c. 1.	33 Hen. 8. c. 20.	Treason. Forfeiture, II. 1242-3	
28 Eliz. c. 1.	5 Eliz. c. 9.	Witnesses. Perjury, II. 606-9	
— 2.		Witchcraft. Sorcery, II. 444	
— 3.	5 Eliz. c. 14.	Forgery, II. 1042-6	
— 6.	14 Eliz. c. 3.	Counterfeiting foreign coin, II. 545	
JAMES I.			
11, 12 & 13 Jac. 1. c. 2.	28 Hen. 8. c. 15.	Marine felonies, II. 465-9 1106-8	
— 3.	18 Eliz. c. 7.	Rape. Burglary. Benefit of clergy, II. 917.	921. 1216.
—	2 & 3 Edw. 6. c. 33.	Stealing a horse, &c. II. 978	
—	1 Edw. 6. c. 12.	Robbing churches, &c. II. 995. 1000-2	
—	5 & 6 Edw. 6. c. 9.	Secret outlawries, II. 193-4	
— 8.	31 Eliz. c. 3.		
CHARLES I.			
† 10 Car. 1. st. 1. c. 3.		Patent. Defective titles, I. 177	
10 Car. 1. st. 2. c. 1. }	27 Hen. 8. c. 10.	Uses. Jointure, I. 463. 537	
— s. 17 & 18. }	27 Hen. 8. c. 16.	Bargain and sale inrolled, I. 539	
— c. 2.	32 Hen. 8. c. 1.	Wills of lands, I. 581	
— 3.	34 & 35 Hen. 8. c. 5.	Fraudulent conveyances, I. 517. II. 1006	
— 4.	27 Eliz. c. 4.	Grantee of reversion, II. 113.4	
— 5.	13 Eliz. c. 5.	Executors. Rents, II. 155-6	
— c. 6. s. 1 to 11. }	32 Hen. 8. c. 34.	Limitation. Actions, II. 130-1. 3. 289	
— 12 to 17. }	32 Hen. 8. c. 37.	Limitation. Pleading, II. 122-131. 150.	222-3
— 18 to 19. }	21 Jac. 1. c. 16.	Limitation. Clergy, II. 163 & <i>Ad.</i> 68	
— c. 7.	1 Mar. st. 2. c. 5.	Descent. Entry, II. 122	
— c. 8. }	32 Hen. 8. c. 33.	Fine. Tenant in tail, I. 572	
— s. 3. }	32 Hen. 8. c. 36.	Alienation by women, I. 519. 520	
— c. 9.	11 Hen. 7. c. 20.	Proclamation of fines, I. 568	
— 10.	1 Mar. st. 2. c. 7.	Fines. Recoveries, I. 568-9. II. 289	
— 11.	23 Eliz. c. 3.	Demurrer. Amendment, II. 227	
— 12. }	27 Eliz. c. 5.	Jeofails cured, II. 282-3-4.	
— 13.	18 Eliz. c. 14.	Jury. <i>Tales</i> , II. 235-6. 249. 250-1	
— 14.	21 Jac. 1. c. 13.	Discontinuance. Reprieve, I. 249. II. 216.	1110
— 15.	35 Hen. 8. c. 6.		
— 16.	1 Edw. 6. c. 7.	Process. <i>Capias</i> , II. 192-3	
— 17. }	19 Hen. 7. c. 9.	Actions against officers, II. 144	
— s. 3. }	23 Hen. 8. c. 14.	Costs, II. 270-1	
— c. 18.	7 Jac. 1. c. 5.	Costs. King. II. 275	
— 19.	21 Jac. 1. c. 12.	Bail. Information. Recognizance. <i>Habeas</i>	
— 20.	23 Hen. 8. c. 15.	<i>Corpus. Certiorari.</i> I. 238. II. 96. 1163-4-5	
— 21.	24 Hen. 8. c. 8.	Murder. Trial, II. 1167-8-9.	
— 22.	1 & 2 Ph. & M. c. 13.	Unnatural crime, II. 918.	
— 23.	2 & 3 Ph. & M. c. 10.	Bigamy, II. 751-2-3	
— 24.	2 & 3 Edw. 6. c. 24.	Petty thefts, II. 931-2. 941.	
— 25.	2 Geo. 2. c. 21.	Impounding distress, II. 3. 109.	
— 26.	25 Hen. 8. c. 6.	Charitable uses, II. 335.	
— 27.	5 Eliz. c. 17.		
— 28.	1 Jac. 1. c. 11.		
— 29.	43 Eliz. c. 7.		
— 30.	1 & 2 Ph. & M. c. 12.		
10 Car. 1. st. 3. c. 1.	43 Eliz. c. 4.		

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
_____ *c. 2 & 3.	_____	Patents. Defective titles, I. 177	
_____ 6.	32 Hen. 8. c. 28.	Leases. Husband. Wife, I. 520-1. 573	
_____ 7.	32 Hen. 8. c. 5.	Executions. <i>Scire facias</i> , II. 314	
_____ 8.	3 Jac. 1. c. 8.	Recognizance. Writ of error, II. 286.	
_____ 9.	21 Jac. 1. c. 24.	Death. Execution, II. 291	
_____ 10.	43 Eliz. c. 8.	Executors <i>de son tort</i> , I. 662	
_____ 11.	14 Eliz. c. 8.	Recovery. Tenant for life, I. 574	
_____ 12.	31 Eliz. c. 3. s. 2.	Summons in real actions, II. 189	
_____ 13.	{ 31 Eliz. c. 11. } { 21 Jac. 1. c. 15. }	Forcible entry, II. 124.	
_____ 14.	_____	Fish, II. 890	
_____ 15.	32 Hen. 8. c. 9.	Maintenance. Champerty, II. 602. 4	
_____ 16.	21 Jac. 1. c. 6.	Women. Larceny, II. 1216-7	
_____ 17.	4 & 5 Ph. & M. c. 8.	Fraudulent abduction, II. 911-2-3	
_____ 18.	27 Eliz. c. 12.	Under-sheriff's oath, I. 222	
_____ 20.	21 Jac. 1. c. 26.	Personating others. Fines, &c. II. 581	
10 & 11 Car. 1. c. 1.	_____	Cursing and swearing, II. 442-3	
_____ *c. 2 & 3.	{ 1 Eliz. c. 19. 13 Eliz. c. 10 } { 14 Eliz. 11. 18 Eliz. 11. }	Clergy. Leases, &c. I. 321-522 3-7-9	
_____ 7.	_____	Distress appraised, II. 4	
_____ 8.	4 Jac. 1. c. 3.	Costs of defendants, II. 271	
_____ 9.	22 Hen. 8. c. 14. s. 6.	Peremptory challenges, II. 1204	
_____ 10.	21 Jac. 1. c. 3.	Process of the peace. <i>Certiorari</i> , II. 1101-3.	1194
_____ 11.	21 Jac. 1. c. 4.	Actions. &c. Penal statutes, II. 117-3	
_____ 12.	1 Jac. 1. c. 13.	Privilege of parliament, II. 291	
_____ 13.	27 Eliz. c. 13.	Hue and cry, II. 1148. 1155	
_____ 15.	_____	Horses. Sheep. Barbarous customs, II. 763	
_____ 16.	_____	Cosherers. Idle wanderers, II. 787	
_____ 17.	_____	Burning corn in straw, II. 763	
_____ 18.	_____	Distraining for heriots, II. 11	
15 Car. 1. c. 1.	21 Jac. 1. c. 14.	Informations of intrusion, II. 174	
_____ 2.	31 Eliz. c. 2.	Proclamation of fines, I. 568	
_____ 3.	21 Jac. 1. c. 25.	Patentees. Forfeiture, II. 170	
_____ *c. 6.	_____	Patents. Defective titles, I. 177	
_____ 7.	12 Eliz. c. 7. s. 5.	Benefit of clergy, II. 1218	
_____ 9.	24 Hen. 8. c. 5.	Justifiable homicide, II. 901	
_____ *11.	_____	Endowments of glebe, I. 344	
CHARLES II.			
14 & 15 Car. 2. st. 4. c. 1.	12 Car. 2. c. 14.	Anniversary, 29 May, 1660, II. 457	
_____ *2.	_____	Act of settlement, I. 176, 180, &c. 423, &c.	
_____ 3.	_____	Innholders, &c. Loss of horses, II. 121	
_____ *8.	12 Car. 2. c. 23.	Act of excise, I. 195	
_____ *9.	{ 12 Car. 2. c. 4. } { 13 & 14 Car. 2. c. 11. }	Act of customs, I. 160, 193-4-5. 305	
_____ *13. }	_____	Naturalization, I. 307	
P. by 4 Geo. 1. c. 9. }	_____	Military tenures, I. 187. 418-9. II. 106	
_____ *19.	12 Car. 2. c. 24.	Patents, I. 566	
_____ 21.	_____	Anniversary, 23 October, 1641, II. 458	
_____ 23.	_____	Act of explanation, I. 184. 423-4-5	
* 17 & 18 Car. 2. c. 2.	_____	Service and sacraments, I. 324-5. II. 380.	&c.
_____ 6.	13 & 14 Car. 2. c. 4.	Ministers' money, I. 353	
_____ *7.	_____	Clergy. Pluralities, I. 348	
_____ 10.	_____	Extent. Execution, II. 314-5	
_____ 11. }	16 & 17 Car. 2. c. 5.	Jeofails cured. Recognizance. Error, II.	284-5-7-8
P. by 7 W. 3. c. 7. }	_____		
_____ 12. }	16 & 17 Car. 2. c. 8.		
P. by 7. W. 3. c. 7. }	_____		
_____ 19.	12 Car. 2. c. 25.	Adulterating wine, II. 748	
_____ 20.	18 Eliz. c. 12.	<i>Nisi prius</i> . Dublin, II. 254	
*25 Car. 2.	_____	Corporations. New rules, I. 423-4-5	

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
WIL. & MARY.			
* 4 W. & M. c. 2. }		Naturalization, I. 307	
P. by 4 Geo. 1. c. 9. }		Commissioners. Affidavits, II. 205	
4.	29 Car. 2. c. 5.		
WILLIAM III.			
7 W. 3. c. 2.	29 Car. 2. c. 9.	Heresy, II. 373-4	
5.		Papists. Oaths. Arms, II. 569	
c. 6. s. 1 to 5. }	22 & 23 Car. 2. c. 10. }	Administration. Intestates, I. 655-6-7	
6.	29 Car. 2. c. 3. s. 25. }		
7 & 8. }	1 Jac. 2. c. 17. s. 6 & 7. }	Administrator <i>de bonis non</i> , I. 661	
9.	17 Car. 2. c. 8.		
10.		Right to reasonable parts, I. 654	
11.	30 Car. 2. st. 1. c. 7.	Executors <i>de son tort</i> , I. 662	
c. 7.	17 Car. 2. c. 8.	Death. Judgment, II. 264	
8.	19 Car. 2. c. 6.	Death. <i>Cestui que vie</i> , I. 461	
9.		Cursing and swearing, II. 442-3	
10.	17 Car. 2. c. 6.	Damage cleer, <i>Ad.</i> 78	
11.	1 Jac. 1. c. 8.	Stabbing. Capital felony, II. 902	
12. s. 1. }	29 Car. 2. c. 3. s. 1, 2, 3.	Parol leases, &c. I. 518	
2.		Parol promises, II. 114	
3.		5 & 6. Devises of land in writing, I. 581	
4 to 8. }		7 to 11. Trusts, I. 538	
9.		12. Estate <i>pur autre vie</i> , I. 506	
10.		14 & 15. Relation of judgments, II. 265	
12.		16. Relation of execution, II. 308-9	
13.		17. Contracts for goods, I. 596	
14.		18. Recognizances inrolled, I. 544	
15 to 20. }		19 to 24. Wills of personalty, I. 660-1	
c. 13. s. 1 & 2. }	21 Jac. 1. c. 5.	Sheriffs' accounts, I. 217	
3. }	1 Mar. st. 2. c. 8.	Sheriffs. Justices, I. 216	
c. 14.	{ 5 & 6 Edw. 6. c. 3.	Holidays, II. 449	
17.	{ 12 Car. 2. c. 30.		
18.	{ 29 Car. 2. c. 7.	Sunday kept holy, II. 214. 453	
† * 21.	{ 1 Car. 1. c. 1. 3 Car. 1. c. 1.	Commissioners. Bail, II. 204. 581	
c. 22. s. 1, 2, 3. }	4 W. & M. c. 4.	Robbery. Reward, II. 1012-3	
4, 5, 6. }	17 Car. 2. c. 7.	Distress. Replevin, II. 112-3	
* c. 24.	2 W. & M. st. 1. c. 5.	Distress for rent, II. 1 to 5	
25.		Measures, I. 163	
9 W. 3. c. 1.	13 Car. 2. st. 2. c. 2.	Bail. Declaring against prisoners. Jeofails.	
c. 7. s. 1 & 5. }		Error, II. 97. 201. 285-7	
2.		Popish clergy, &c. II. 439. 537	
3.	3 W. & M. c. 9. s. 1. & 5	Burglary. Larceny, II. 921. 931. 995-6-7	
4.		2. Standing mute, II. 1197	
6 & 7. }		3. Larceny. Trial, <i>Ad.</i> 142.	
† * c. 9.		4. Receiving stolen goods, II. 587. 595	
c. 10. s. 1. to 5. }		6 & 7. Benefit of statute, II. 1217-9	
6 & 7. }	8 & 9 W. 3. c. 11.	Robbery. Reward, II. 1012-4	
8 & 9. }		Costs, II. 269. 272-3-4 & <i>Ad.</i> 79	
c. 11.		s 6 & 7. Death. Abatement, II. 221. 264	
12. }	4 & 5 W. & M. c. 16.	8. Assigning several breaches, II. 225	
P. by 6 Ann. c. 3.	8 & 9 W. 3. c. 31.	Mortgages, II. 338	
* 10 W. 3. c. 6.	21 Jac. 1. c. 23.	Joint-tenant, &c. Partition, I. 475. 7	
8.	13 Eliz. c. 10. 14 Eliz. c. 11.	Inferior courts, II. 100. 289	
10.		Clergy. Dilapidations, I. 333. 344-5 6	
11.		II. 85.	
14.		Game. Arms, II. 571. 857 to 868	
	2 & 3 Edw. 6. c. 8.	Traversing inquisitions, II. 166	
	16 Car. 2. c. 7.	Gaming, II. 798. 801-2	
	9 & 10 W. 3. c. 15.	Arbitration, II. 12	

† These statutes though expired are referred to by 19 & 20 Geo. 3. c. 37.

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
ANNE.			
2 Ann. c. 3.	}	Popish regulars, II. 538	
P. by 8 Ann. c. 3.			
5.	{ 1 W. & M. st. 2. c. 2.	Protestant succession, Treason, I. 12. 150.	II. 483
	{ 12 & 13 W. 3. c. 2.		
	{ 1 Ann. st. 2. c. 17.	Papists, I. 294. 414. 434. 492 to 505	II. 435-6. 8. 566
	{ 12 Ann. st. 2. c. 14.		
	{ 25 Car. 2. c. 2.		
6.	{ 3 Car. 1. c. 2.	Popish priests registered, II. 423	
7.	}	Forfeited estates, I. 187	
P. by 8 Ann. c. 3.			
*8.	}	Naturalization, I. 307	
*14.			
P. by 4 Geo. 1. c. 9.	}	Popish priests registered, II. 423-4	
4 Ann. c. 2.			
P. by 8 Ann. c. 3.	}	Fraudulent devises, I. 583-4	
5.			
10.	3 W. & M. c. 14.	Prisoners' fees, II. 1212	
a. 11. s. 1 to 4.	{ 2 & 3. Ph. & M. c. 7.	Sale of horses, I. 597 8-9	
P. by 6 Ann. c. 12.			
5 & 6.	{ 31 Eliz. c. 12.	Receiving stolen goods, II. 588. 595	
*c. 12.	{ 1 Ann. st. 2. c. 9.		
*14.	{ 1 W. & M. st. 1. c. 30.	Royal mines, I. 189	
*6 Ann. c. 2.	{ 5 W. & M. c. 6.		
3.	2 Ann. c. 4. 5 Ann. c. 18.	Weights regulated, I. 162.	
6.		Register of deeds, &c. I. 544, &c.	
7.	3 Geo. 1. c. 15.	Joint-tenants, &c. Partition, <i>Ad.</i> 42	
8.		Papists, I. 224 & <i>Ad.</i> 141	
10. s. 1 & 7.	4 Ann. c. 16. s. 1 & 7.	Fees on executions, II. 316	
2.	s. 2 & 24.	Privilege of parliament, II. 209. 210	
3.		Demurrer. Amendment, II. 227-8	
4 & 5.		Jeofails cured, II. 285-6	
6.		Warrant of attorney, II. 282	
8.		Pleading double matter, II. 225	
9 & 10.		Challenge. Hundredors, II. 236	
11.		Jury. Viewers, II. 249	
12 & 13.		Attornment, I. 514	
14.		Dilatory plea verified, II. 221	
15.		Pleading payment, II. 226	
16.		Nuncupative wills, I. 660	
17.		Entry to avoid fine, I. 572	
18.		Trust of fines, &c. declared, I. 577	
19.		Limitation. Actions, II. 224	
20.		Bail-bond assigned, II. 206	
21.		Warranties void, I. 520	
22.		<i>Subpœna</i> upon bill, II. 351	
23.		Jeofails. King's debts, II. 330	
c. 11. s. 1.		Costs of writ of error, II. 288	
P. by 31 Geo. 3. c. 44.		Action of account, II. 119	
c. 14. s. 10.		Vagrants transported, II. 787	
c. 15.		Game, II. 860	
16. s. 1 to 6.		Outlawry. Bail, II. 194. 206	
s. 7 & 8.	39 Eliz. c. 9. s. 1.	Fraudulent abduction, II. 913 to 916	
c. 17.	10 & 11 W. 3. c. 17.	Forcible abduction, II. 911	
3 Ann. c. 3.		Lotteries. Gaming, II. 808	
4.		Papists, I. 414. 495 to 499. II. 424. 8. 539.	
5.	10 & 11 W. 3. c. 16.	567-8. 576. <i>Ad.</i> 118.	
P. by 4 Geo. 1. c. 9.	5 & 6 W. & M. c. 11.	Posthumous children, I. 471	
c. 6.	{ 8 & 9 W. 3. c. 26.	Counterfeit coin, II. 474 to 477. 488 to 490	
P. by 4 Geo. 1. c. 9.	{ 9 & 10 W. 3. c. 21.		
7.	{ 13 Geo. 3. c. 71.		
8.	1 Ann. st. 2. c. 6.	Marshalsea. Escape, II. 294. & <i>Ad.</i> 80	
	5 Ann. c. 31.	Receiving stolen goods. Reward. Accessories, II. 587. 595. 921. 1159 to 1161	

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
cap 9.	4 & 5 W. & M. c. 21.	Declaring against prisoners, II. 96	
*10.	{ 2 Ann. c. 4. 5 Ann. c. 18.	Registry of deeds, &c. I. 547 to 551. II.	1092
	{ 6 Ann. c. 35.		
11.	{ 9 & 10 W. 3. c. 17.	Bills of exchange. Promissory notes, I.	607-8. 9
	{ 3 & 4 Ann. c. 9.		
9 Ann. c. 6. s. 1.	5 Ann. c. 6. s. 4.	Benefit of clergy, II. 1216	
2.	18 Eliz. c. 7. s. 4.	Carnal knowledge of child, II. 917	
3 & 4.	{ 12 Ann. st. 1. c. 7.	Larceny. Dwelling house, &c. II. 997-8	
	{ 10 & 11 W. 3. c. 23.		
5.	3 W. & M. c. 9.	Larceny. Cattle, II. 979	
7.	4 W. & M. c. 24.	Benefit of clergy, II. 1219	
9.	1 Ann. st. 2. c. 9.	Benefit of statute, II. 1217	
8.	8 Ann. c. 14.	Witnesses for prisoner. II. 1207	
		Distress. Debt. Executions. Rent, II.	156. 309
11.	22 & 23 Car. 2. c. 7.	Maiming, &c. cattle, II. 1019	
11 Ann. c. 2.	4 Geo. 2. c. 28.	Landlord and tenant, I. 468. II. 2. 114-136.	&c.
3.	11 Geo. 3. c. 20.	Leases. Renewal. Infants, &c. II. 350.	
5.	9 Ann. c. 14.	Gaming, II. 660. 798. 801-2	
6.	10 & 11 W. 3. c. 17.	Gaming, II. 808	
8.		Under-sheriffs, I. 219. 223. <i>Ad.</i> 14	
GEORGE I.			
*2 Geo. 1. c. 5.	6 Ann. c. 31.	Fire, accidental, negligent, II. 120. 920	
6.	7 Ann. c. 19.	Infants, trustees, &c. II. 348	
*11. s. 12 & 13.		Civil bills, I. 248. II. 63-8-9	
14 & 15.	{ 43 Eliz. c. 6. 21 Jac. 1. 16	Costs. Damages, II. 274	
	{ 22 & 23 Car. 2. c. 9.		
*c. 14.		Augmentation of vicarages, I. 321	
P. by 13 Geo. 2. c. 4.		Board of first fruits, I. 170	
*15.	2 & 3 Ann. c. 11.	Larceny. Trees, II. 941	
*16.		Master. Tenant. Apprentice. Nurse,	
*17.		I. 388-9. 391. 8-9. II. 924. <i>Ad.</i> 116. 134.	
20. s. 1 & 2.		Prosecutions for words, <i>Ad.</i> 120	
3 & 4.	31 Eliz. c. 5.	Penal actions. Limitation, II. 117	
c. 21.		Fish, II. 890	
22.		Maiming cattle, II. 1020	
4 Geo. 1. c. 4.	12 Ann. st. 2. c. 18.	Wreck. Larceny. Salvage, II. 961 to 977	
P. by 11 Geo. 2. c. 9.	5.	Distress. Ejectment, II. 6. 139	
	*9.	Naturalization, I. 307	
	10.	Limitation. Writ of error, II. 289	
	13.	Costs. Demurrer, II. 270	
6 Geo. 1. c. 1.	{ 16 Car. 1. c. 6.	Michaelmas term. Days in bank, II. 185-6	
	{ 24 Geo. 2. c. 48.		
5.	{ 1 W. & M. st. 1. c. 18.	Protestant dissenters, I. 256, 352. II, 593,	&c. 415-6
	{ 10 Ann. c. 2.		
6. s. 1 to 4.	5 Geo. 1. c. 13.	Writ of error, II. 285-8-9	
5 & 6.	10 & 11 W. 3. c. 14.	Answers of quakers, II. 357	
7.		Recognizances inrolled, I. 544	
8.		Bail. Inferior courts, II. 201	
9 to 14.		Ecclesiastical courts, II. 1127, &c.	
15.		Court-leet. County court, II. 1124	
16 & 17.		Popish converts, II. 576	
18.		Judgment satisfied, II. 268	
c. 9.		Qualification oaths, II. 567	
10.		Gaolers, I. 235	
P. by 10 Geo. 1. c. 3.		Convicts. Pardon, II. 1228. 1249	
12. s. 1, 3, 4.		Helping to stolen goods, II. 587	
s. 5.	4 Geo. 1. c. 11.	Maintenance of curates, I. 350	
13.	12 Ann. st. 2. c. 12.	Clergy. Leases, &c. I. 531	
14.			

Irish statutes.	English statutes.	Subject matter.	Pages where found.
8 Geo. 1. c. 2.		Distress. Ejectment. Privilege of parliament,	II. 4-6. 140. 212
_____ 4.		Limitation. Bonds, &c. II.	133. 224
_____ 5.		Mears and fences, I.	479
_____ *c. 6. s. 1.		<i>Nisi prius</i> , II.	47.
_____ s. 5 & 6.	11 Geo. 2. c. 19. s. 23.	Replevin. Sureties, II.	110
_____ 8.		Certificates of judgments, &c. II.	267
_____ 9.		<i>Habeas corpus</i> , II.	98
_____ 10.		Parol demur, II.	217
_____ 12.	14 Geo. 2. c. 20.	Common recovery, I.	576
_____ *9.	6 Geo. 1. c. 23.	Receiving stolen goods. Escape, Reward,	II. 587 1231. & <i>Ad.</i> 137. 140.
_____ *12.	16 Geo. 2. c. 15.	Clergy. Glebes, I.	340 4
_____ *15.		Deeds, &c. registered, I.	545 to 550.
			II. 1092
*10 Geo. 1. c. 6.		Glebes. Churches, I.	344. 352
P. by 13 Geo. 2. c. 4.		First fruits, I.	170
_____ *7.	2 & 3 Ann. c. 11.	Marriage. Bigamy. I.	403. II. 750-3
12 Geo. 1. c. 3.		Sheriffs, Jury, I.	211. &c. II. 241
_____ *4.	3 Geo. 1. c. 15.	Fish, II.	882 to 898
_____ 7.		Transportation, II.	1232. 1249
_____ *8.	6 Geo. 1. c. 23.	Churches. Vestries, I.	352
_____ *9.		Glebes. Glebe-houses, I.	333-4-5. 532-3.
_____ *10.			II. 85
GEORGE II.			
1 Geo. 2. c. 2.		Oaths of office, I.	294
_____ *7.	6 Ann. c. 7.	Parliament. Demise of king, I.	146
_____ 8.		Privilege of parliament, II.	209
_____ *9.		Elections, I.	88-427
_____ 12.		Subtraction of tithes, II.	82-4
P. by 13 & 14 Geo. 3. 41	7 & 8 W. 3. c. 6.	Civil bills, II.	63
_____ *14.		Glebes. Glebe-houses, I.	339. 529
_____ *15.		Decrees against trustees, II.	354
_____ 17.		Clergy. Residence. Curates, I.	331. 350
_____ *18.		Papists. Sheriffs. Attornies, I.	224. II. 31
_____ 20.		Maintenance of curates, I.	349
_____ *22.	12 Ann. st. 2. c. 12.	Advowson. <i>Quare impedit</i> . I.	437. II. 162.
_____ 23.	7 Ann. c. 18.		344
P. by 13 Geo. 2. c. 4.	{ 13 Geo. 2. c. 21.	Mischief. Mines, II,	1031
_____ *24.	{ 9 Geo. 3. c. 29.		
*3 Geo. 2. c. 4.	2 Geo. 2. c. 25.	Perjury. Forgery, II.	608-9. 1046
P. 17 & 18 Geo. 3. c. 36.		Larceny. Choses in action, <i>Ad.</i>	121
_____ s. 3.		Convicts burned in the hand, &c. II.	1234
_____ s. 6.		Poor prisoners, I.	230
_____ 5.		Judgments doggeted, II.	265-6-7
P. 13 & 14 Geo. 3. c. 42.	4 & 5 W. & M. c. 20.	Sheriffs' deputies & clerks, I.	220. II. 57. 109
_____ *9.		Fees on indictments, II.	1213
_____ s. 2.		Parish cesses apploted, I.	354
_____ *c. 11.		Clergy. Glebes, &c. I.	344-5
_____ *12.		Combinations, II.	716
_____ *14.		Justices of peace. Fees, I.	251
_____ 16.		Ejectment, II.	141-2-3
*5 Geo. 2. c. 4. s. 1-2.		Leases renewed, I.	535
_____ 4.	4 Geo. 2. c. 28. s. 6.	Injunction bills, II.	342
_____ 5.		Decrees against trustees, II.	354
_____ 6.		<i>Scire facias</i> . Costs, II.	270
_____ 7.	8 & 9 W. 3. c. 11. s. 3.	<i>Devastavit</i> . Inquisition, I.	663
_____ 8.		Traders' settlements, I.	563
_____ 10.		Assault. Tradesmen, <i>Ad.</i>	116
_____ 11.		Interest. Usury, I.	605. II. 696
_____ c. 7.	12 Ann. st. 2. c. 16.	Idiots. Lunatics. Trustees, II.	348. 354
_____ 8.	4 Geo. 2. c. 10.		

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
— *cap. 9		Partition of bogs. Tithe, I. 435. 485	
— 10. }	4 Geo. 2. c. 32.	Larceny. Lead, &c. II. 952	
P. by 13 Geo. 2. c. 4. }		Fish, II. 900	
— *11.		Fireworks. Nusances, II. 765-6	
— 12	9 & 10 W. 3. c. 7.	Attornies, &c. II. 25 to 31	
7 Geo. 2. c. 5.	2 Geo. 2. c. 23.	Papists. Justices of peace, I. 246	
— 6.		Game, II. 863	
— 8.		Constables, I. 253	
— *12		Mortgages. Process in equity, II. 333.	
— 14. }	5 Geo. 2. c. 25.	354-5	
— s. 9. }	2 Geo. 2. c. 23. s. 23.	Action for attornies' fees, II. 33	
9 Geo. 2. c. 5. s. 1. to 4. }		Assignment of judgments, I. 594.	
P. 11 & 12 Geo. 3. c. 19. }		Lease and release. Evidence, I. 540	
— s. 6. }		Vagrants transported, II. 787	
P. by 1 Geo. 3. c. 3. }	7 Geo. 2. c. c. 5.	Tenant's right to trees, I. 447	
*c. 6. s. 2-3-4. }		Clandestine marriages I. 404-5. II. 916.	
I. by 31 Geo. 3. c. 14. }		& Ad. 119	
— 7.		Glebe-houses, I. 333-4-5	
— 11.		Privilege of parliament, II. 211	
— *13.		Proceedings in English, II. 228-9	
11 Geo. 2. c. 5.	4 Geo. 2. 26. 6 Geo. 2. 6.	Enlisting in foreign service, II. 511	
— 6.	6 Geo. 2. c. 14.	Maiming. Chalking, II. 908-9	
— 7.	9 Geo. 2. c. 30.	Marriage of dissenters, I. 411	
— 8.	22 & 23 Car. 2. c. 1.	Clergy. Leases, I. 527	
— 10.		Bishops translated. Rent, II. 156	
— 15. }		Papists. Arms, II. 571	
— s. 3 & 4. }		Gaming, II. 804 to 809	
13 Geo. 2. c. 6.		Horse races, II. 819	
— c. 8. s. 1 to 11. }	12 Geo. 2. c. 28.	Proceedings in equity, II. 355	
— 12 to 16 }	13 Geo. 2. c. 19.	Demesnes of archbishops, I. 533-4. II. 87	
— c. 9.		Distress. Attornment. Notice to quit,	
15 Geo. 2. c. 5.		I. 468. 514. II. 5-7-8-9-10	
— 8. }	11 Geo. 2. c. 19.	Transportation, II. 1230-3	
P. by 1 Geo. 3. c. 17. }		Maiming, &c. cattle, II. 980	
17 Geo. 2. c. 4.		Larceny. Reward, II. 997-8-9 & Ad. 140.	
— *5.	14 Geo. 2. 6. 15 Geo. 2. 34.	Glebe-houses, I. 335	
— 6.	24 Geo. 2. c. 45.	Proceedings in English, II. 229	
— 8. s. 1. }	10 & 11 W. 3. c. 23.	Combinations, II. 719	
— s. 2. }		Burning land, II. 759	
— s. 3 to 7. }		Forgery, II. 1046	
— c. 10. s. 1 to 7. }		Salvage. Wrecks, II. 971	
P. by 1 Geo. 3. c. 17. }		Corporation elections. <i>Mandamus. Quo</i>	
— c. 11. s. 1. }	2 Geo. 2. c. 25.	<i>warranto,</i> I. 429. II. 176 to 181	
P. by 34 Geo. 3. c. 23. }		Marriage. Abduction, I. 410. II. 911	
— s. 2. to 11. }		Arms, II. 571	
*19 Geo. 2. c. 12.	9 Ann. c. 20.	Demesnes of bishops, I. 533	
— 13.	11 Geo. 1. c. 4.	Quakers, I. 297. II. 261	
— 14.		Common recoveries, I. 575	
— *16.		Assault. Robbery, II. 1002	
— 18.	7 & 8 W. 3. c. 34. 8 Geo. 1. c. 6	Timber. Mischief, I. 943	
21 Geo. 2. c. 11.	14 Geo. 2. c. 20.	Marriage, I. 405. II. 751	
— 12	7 Geo. 2. c. 21.	Apprentices. Charter schools, I. 400. II. 917	
— *15.		Sheriffs, I. 224	
23 Geo. 2. c. 10.		Constables, I. 253-4	
— *11.		Trustees of turnpikes, I. 272	
— *13		Master. Servant. Apprentice, I. 391-2	
— 14	13 & 14 Car. 2. c. 12.	Mutual debts set off, II. 222	
— 16.			
*25 Geo. 2. c. 8.	20 Geo. 2. c. 19.		
P. by 5 Geo. 3. c. 15. }	2 Geo. 2. c. 22. s. 13.		
— s. 8. }			

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
— cap. 11.	25 Geo. 2. c. 6.	Witnesses. Wills, I. 582	
— 12. }		Forcible possession. Foreign service.	
P. by 40 Geo. 3. c. 96. }			II. 513. 657.
— c. 13. s. 1. }		Overholding tenant, <i>Ad.</i> 41	
— s. 2. & 3. }		Ejectment, II. 142	
— s. 4. }	11 Geo. 2. c. 19. s. 22.	General avowry, II. 112	
— s. 5. }		Distress sold, II. 4	
— c. 14. s. 1. }		Assignment of judgments, I. 595	
— s. 2. }		Six clerks elected, II. 370	
29 Geo. 2. c. 6. }	{ 4 W. & M. c. 24	Jurors. Viewers. Challenge of papists.	
P. 13 & 14 Geo. 3. c. 41. }	{ 7 & 8 W. 3. c. 32.		II. 234. 246-7-8-9. 255-6-8. 1205
— *12. }	{ 3 Geo. 2. c. 25.		
P. by 1 Geo. 3. c. 17. }	22 & 23 Car. 2. c. 7,	Combinations. Malicious mischief, II. 622.	
— 15.			721. 1010 1020.
— 16.	39 Geo. 3. c. 85.	Sub-sheriffs, &c. Extortion. I, 220. &c.	<i>Ad.</i> 76
— *18.	1 Geo. 1. st. 2. c. 10,	Bankers. Larceny, II. 924. <i>Ad.</i> 43	
*31 Geo. 2. c. 10.	{ 4 Geo. 3. c. 37.	Augmentation. Clergy, I. 170-1. 321. 348	
— *11.	{ 22 Geo. 3. c. 40.	Mischief. Manufactures, II. 1023	
— *13.		Glebe-houses, I. 339. 345	
— *16.		Fish, II. 886, &c. 891. 900	
33 Geo. 2. c. 11.		Civil bills, II. 64	
— 14.		Church wardens. Parish-clerks, I. 352-5	
		Bankers, I. 552	
GEORGE III.			
1 Geo 3. c. 3.	10 Ann. c. 18.	Lease and release. Pleading, I. 540	
— 11.		Justices of peace. Cities, &c. II. 1136	
*c. 12 & 13.		Protestant titles quieted, I. 505	
c. 17 s. 3. 4. 5. }		Burning land, II. 759	
s. 10. }		Venue. Cities, Tolls, II. 215	
*3 Geo. 3. c. 16.		Trustees of charities, II. 336	
— 18.		Charitable bequests, I. 663	
— 19.		Riot. Unlawful assembly, II. 617	
— 26.		Protestant titles quieted, I. 505	
*28.	25 Geo. 2. c. 36. s. 11.	Clerk of the crown. Prosecutors, II. 1211-2	
— 29.		Burning land, II. 759	
*34.	{ 18 Geo. 2. c. 27.	Linen manufacture, I. 398. II. 721. 987.	
— *35.	{ 4 Geo. 3. c. 37.		1023. 1100.
5 Geo. 3. c. 10.		Fish, II. 882	
— 17.		Burning land, II. 759	
*20.		Trees planted, registered, I. 449	
— 21.	7 W. 3. c. 3.	Hospitals, I. 287	
7 Geo. 3. c. 3.	1 Geo. 1. st. 2. c. 38.	Trial. Treason, II. 1203	
— 9.		Duration of parliament, I. 147	
*16.	1 Geo. 3. c. 13.	Dilapidation, II. 85	
*20.		Justices of peace. Oaths, I. 249	
— 21. }	{ 7 & 8 W. 3. c. 34.	Trees planted, registered, I. 452	
P. 11 & 12 Geo. 3. c. 19. }	{ 1 Geo. 1. st. 2. c. 6.	Subtraction of tithe, II. 77 to 82	
— 23.		Trees. Larceny, II, 941-7	
*9 Geo. 3. c. 2.		Army establishment, I. 377	
11 Geo. 3. c. 2.		Burning land, II. 759	
— 7.	{ 11 Geo. 2. c. 22.	Riot. Mischief. Corn, II. 1017	
*10.	{ 36 Geo. 3. c. 9.		
†11 & 12 Geo. 3. c. 8. }	24 Geo. 3. st. 2. c. 26.	Elections. Parliament, I. 69	
P. by 36 Geo. 3. c. 34. }		Bankrupts, I. 615 to 653	
— 10.		Mortgage. Receiver, II. 339	
*15.		Foundlings, I. 286	
*16.		Perpetual cures, I. 341. 350	
*17.		Glebe-houses, I. 333 to 344	
— 21.		Papists. Leases. Bogs, I. 503. 536	

† This act incorporates several English statutes.

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
— *cap. 30.		Poor-houses. Vagrants, I. 283. II. 789	
— 34.	6 Hen. 8. c. 6.	Remitting prisoners, &c. II. 1194	
13 & 14 Geo. 3. c. 14.	7 Geo. 2. c. 22.	Forgery, II. 1046	
— 16.	12 Geo. 3. c. 20.	Standing mute, II. 1197	
— *21.		Forgery, II. 1100	
— 23.		Attornies, II. 27-8-9	
— 25.		Protestant titles quieted, I. 505	
— *26.		Treasurers of turnpikes, I. 273	
— *27.		Glebes. Glebe-houses, I. 337. 351	
— 35.		Papists' oaths, I. 300	
— *42.		Election of magistrates, I. 429	
— 45. }	22 & 23 Car. 2. c. 1.	Chalking. Maiming, II. 909	
P. by 40 Geo. 3. c. 96. }			
* 15 & 16 Geo. 3. c. 11.	24 Geo. 3. st. 2. c. 26.	Elections. Parliament, I. 69	
— *17.		Glebes. Glebe-houses, I. 344-5	
— 21. }	{ 9 Geo. 1. c. 22.	White-boy act. Tumult, II. 586. 629	
P. by 40 Geo. 3. c. 96. }	{ 16 Geo. 2. c. 31.		
— 26.		Trees planted, registered, I. 450. II. 942.	
— 27.	4 Geo. 2. c. 28.	Ejectment, II. 138. 143	
— 29.		Peers. Peeresses. Trial, <i>Ad.</i> 145	
— 33.		Wrecks. Larceny, II. 961	
*17 & 18 Geo. 3. c. 9. }	19 Geo. 3. c. 74.	Hard labour. Convicts, II. 1235. 1250.	
P. by 40. Geo. 3. c. 96. }			
— *19. }		Fish, II. 883 to 900. 947	
P. by 32 Geo. 3. c. 40. }		Larceny. Linen, II. 988	
— *21.		Mischief. Manufactures, II. 1024	
— 33.	6 Geo. 1. c. 23	Trees. Property. Mischief, I. 452. II. 948	
— 35.		Breaking gaol. Tumults II. 586. 636	
— 36. }			
P. by 40 Geo. 3. c. 96. }			
— c. 45. s. 12. }		Plea of outlawry, II. 1199. & <i>Ad.</i> 77	
— s. 3 to 10. }	3 Geo. 2. c. 25.	Special juries, II. 252	
— s. 11. }		Bankrupt, I. 637	
— 48. }	4 Geo. 3. c. 33.	Bankrupt, I. 619	
P. by 36 Geo. 3. c. 34. }			
— c. 49. s. 1 to 10. }		Papists, I. 414. 501-4-5	
— s. 11. }		Leasing power, I. 535-6	
19 & 20 Geo. 3. c. 6.		Protestant dissenters, I. 297	
— *19.		Combinations. Riot, I. 397. II. 722, &c. 1024	
— c. 25. s. 1 to 10. }		Bankrupt, I. 619 to 653. II. 337	
P. by 36 Geo. 3. c. 34 }		Mercantile companies, I. 613	
— s. 11. }		Alien. Naturalization, I. 53. 307	
— c. 29.		Renewal of leases, II. 342.	
— 30.		Mischief to cattle, &c. II. 982. 1012-3-4	
— 37.		Inferior courts, II. 62. 100. 290	
— c. 38. s. 1 to 7 }	19 Geo. 3. c. 70.	Sheriffs overholding money, II. 319	
— s. 8. }		Toll-bridges, I. 277	
— *c. 41.		Treasurers of turnpikes, I. 273	
— *50.		<i>Habeas corpus</i> , I. 9. II. 102 to 106. 1203.	
21 & 22 Geo. 3. c. 11.	31 Car. 2. c. 2.	Bank. Larceny, II. 925	
— *16.	15 Geo. 2. c. 13	<i>Nisi prius</i> , II. 254	
— 18.		King's debts, II. 323 to 327	
— 20.	{ 33 Hen. 8. 39. 13 El. 4.	Election of magistrates, I. 426	
— 21.	{ 27 El. 3. 25 Geo. 3. 35.	Papists, I. 434. 502. II. 425. 1093	
— 24.		Protestant dissenters. Marriages, I. 411	
— 25.		Papists conforming, I. 499	
— 26.		Qualification oaths, <i>Ad.</i> 19	
— 33.		Escape. <i>Habeas corpus</i> , II. 294	
— 34. }			
P. by 30 Geo. 3. c. 45. }		Sessions in cities, II. 1118	
— *42.		Anonymous partnerships, I. 556	
— 46.		English acts adopted, I. 143. 154. 186.	
— 48.		296. 384. 467. II. 1111. <i>vide</i> preface	

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
cap. 50.	1 Geo. 3. c. 23.	Judges' commissions, I. 159	
51.		Remitting prisoners, II. 1194	
*52.		Churchwardens, I. 354	
57.		Seceders, I. 297. II. 262	
62.		Papists. Schools. Guardians, I. 419. II. 423.	
23 & 24 Geo 3. c. 14. }		Admiralty court, I. 159. II. 58	
s. 4. }		Marine felonies, II. 1108	
*c. 17.	{ 5 Geo. 3. c. 25. }	Post-office. Larceny, II. 927. 957	
	{ 7 Geo 3. c. 50. }		
20.		Tumult. Corn, II. 639	
*22.	12 Geo. 1. c. 32 & 33.	Suitors' money, II. 362. 1092	
*23.	24 Geo. 3. st. 2. c. 53.	Forgery. Stamps. Plate, II. 1093	
*28. }		Libels, II. 665	
P. by 40 Geo. 3. c. 96. }			
*34.	14 Geo. 3. c. 20.	Prisoners. Fees, II. 1212	
38.		Naturalization, I. 53. 308	
39.		Trees planted, registered, I. 452. II. 944-5-6-8	
*40. }		Fish, II. 884 to 898	
P. by 32 Geo. 3. c. 40. }			
41.	27 Geo. 3. c. 11.	Gaol. House of correction, II. 1134	
45. s. 1 to 8. }	22 Geo. 3. c. 58.	Receiving stolen goods, II. 588. 595	
s. 9. }	25 Geo. 2. c. 36.	Theftbote, II. 598	
c. 46. s. 1 & 2. }	11 Geo. 2. c. 19. s. 15. }	Rent apportioned, I. 458	
s. 3. }	s. 14. }	Action of use and occupation, II. 157	
*48.	26 Geo. 2. c. 19.	Wreck. Larceny. Salvage, II. 961 to 977.	
*49.		Vicarages. Curacies. Churchwardens, Sextons, I. 341-4-5-6. 351-4-1	
50.	{ 15 Geo. 2. c. 28. }	Counterfeiting coin, II. 478. 489. 491-2-3	
	{ 11 Geo. 3. c. 40. }		
55.		Interest of money, <i>Ad.</i> 48	
*58.		Houses of industry, I. 285	
*25 Geo. 3. c. 17.	23 Geo. 2. c. 13.	Seducing artists, II. 734	
*21.		Glebe-houses, I. 334	
31. }	24 Geo. 2. c. 18.	Challenge to array. Knight, II. 257	
P. by 34 Geo. 3. c. 23. }			
36.		Sheriffs' oaths, I. 213	
37.	18 Geo. 3. c. 18.	Forgery, II. 1046	
38.		Clergy. Induction, &c. proved. <i>Ad.</i> 19	
44.		Manor courts, II. 69	
*47.		Registry. Certificates, I. 546. 550	
*48.		Charter school apprentices, I. 400	
*49.		Glebe-houses, I. 334	
c. 51. s. 1 & 2. }		Injunction bills, II. 342	
s. 3. }	4 Ann. c. 16. s. 23.	Costs in equity, II. 371	
c. 53.		King's debts, II. 327	
*58.		Church-wardens. Parish-clerks, I. 352-5	
26 Geo. 3. c. 17.		Protest of bills, &c. Fees, I. 609	
— 24. s. 64-5-6. }		Forcible possession, II. 656	
— 67 to 71. }		Convicts transported, II. 1229	
— 73-4. }		Riot. Tumult, II. 617. 634	
31.		<i>Scire facias</i> . Execution, II. 314-5	
34.		Anonymous partnerships, I. 613	
37.	30 Geo. 2. c. 24. s. 1.	Swindling. False pretences, II. 1005	
39.		Depreciating coin, II. 504	
*c. 43. s. 19.		Receiving stolen goods, II. 597	
c. 45.		Bridewells. <i>Ad.</i> 136	
*50. }		Fish, II. 884 to 889	
P. by 32 Geo. 3. c. 40. }			
*61.		Paving commissioners. Parliament, I. 26	
27 Geo. 3. c. 15. }	1 Geo. 1. st. 2. c. 5.	Tumult. Riot, II. 618 to 622	
P. by 40 Geo. 3. c. 96. }			
s. 6 & 7. }	37 Geo. 3. c. 123.	Unlawful oaths, II. 523	
c. 22.		Manor courts, <i>Ad.</i> 62	
*23.	{ 12 Car. 2. c. 13. }	Ships registered, I. 384	
	{ 26 Geo. 3. c. 60. }		

Irish Statutes	English Statutes.	Subject matter.	Pages where found.
— *27.	4 Geo. 2. c. 18.	Mediterranean pass, II.	1094
— *30.	4 Geo. 3. c. 12.	Mischief. Navigable rivers, II.	1038
— 31.	—	Game, II.	860
— 34.	10 Geo. 3. c. 18.	Stealing dogs, II.	984
— 35.	—	Game, II.	57 to 868
*c. 39. s. 8.	—	County infirmaries, I.	191. 233. 286
— *46.	37 Geo. 3. c. 143.	Market juries, II.	699
— 52.	29 Geo. 2. c. 30.	Receivers of stolen lead, II.	595
— *53.	13 Geo. 3. c. 84.	Mischief. Turnpikes, II.	1040
28 Geo. 3. c. 13.	—	Post-office. Larceny, II.	929. 955
— *15. }	—	Commissioners. Charities, II.	336
P. 46 Geo. 3. c. 122. }	—	—	—
— *24.	—	Respite. Chancellor, II.	1245
— *27.	—	Riot, II.	643
— 29.	11 & 12 W. 3. c. 16.	Tithe of hemp, I.	437
— 31. s. 1. }	—	Bill of exceptions, II.	264
— s. 2. }	14 Geo. 2. c. 17.	Judgment of nonsuit, II.	256
— 32.	—	Court of delegates, II.	53, 533
— 35.	—	Purchasers in equity, II.	358
— 37.	—	Search for stolen sheep, II.	981
— *38.	—	Court-houses, II.	49
— 42.	—	Market juries, II.	700
— *49.	—	Defacing names on watches, &c. II.	596
29 Geo. 3. c. 26.	—	First fruits, I.	171
— 30.	—	Nuisance. Commons, II.	763
*30 Geo. 3. c. 9.	—	Coroners fees, I.	240
— 23.	—	Bankrupts, I.	636
— 29.	—	Guardians, I.	419
— 32.	24 Geo. 3. st. 2. c. 56.	Convicts transported, II.	1230
— *37.	—	Canals. Nusances, II.	759
— *41.	—	Accomptant-general, II.	366
31 Geo. 3. c. 17.	25 Geo. 2. c. 37	Murder, II.	904
— 18.	23 Geo. 2. c. 11	Perjury, II.	610
— 19.	—	Glebe-houses, I.	337-8.
— *23.	—	Apprentices, I.	399
— 30.	—	Nisi prius, II.	254
— *31.	—	Civil bills, II.	63-9
— 32.	—	Slander. Bail, II.	202-3
— *38.	—	Encroachments. Common, II.	764. 946
— 40.	—	Trees. Larceny. II.	946
*32 Geo. 3. c. 12.	—	Augmentation. Vicarages, I.	322
— *16.	—	Constables, I.	254
— 21.	—	Papists, I.	397. 410. II. 25. 31. 54. 429
— 27.	19 Geo. 3. c. 74	Penitentiary houses, II.	1238
— 29.	—	Exaction of tolls, <i>Ad.</i>	96
— *30.	—	Post-roads, I.	271
— 31.	7 & 8 W. 3. c. 37	Mortmain licenses, I.	510
— *32.	—	Mortgages. Aliens, <i>Ad.</i>	41
*33 Geo. 3. c. 18. s. 18.	27 Geo. 3. c. 1.	Lotteries unlawful, II.	812
— 21.	—	Papists, &c. I.	88. 300 to 304. 362. 434. 503. II. 575. 751
— 23.	32 Geo. 3. c. 34 & 67.	Personating seamen, &c. II.	1085
— 25. }	2 & 3 Edw. 6. c. 13	Barren land. Tithe, I.	435
— s. 2. }	—	Prohibition. Tithe, II.	94
— c. 29.	39 Geo. 3. c. 79	Convention act, II.	654
— *34.	27 Geo. 3. c. 13	Consolidated fund, I.	203
— 38.	—	Corporation. <i>Mandamus</i> , <i>Ad.</i>	68
— *41.	—	Elections. Parliament, I.	60 & <i>Ad.</i> 4
— 42. s. 28.	—	Discharge from execution, II.	292
— c. 43.	32 Geo. 3. c. 60	Libel. General verdict, II.	662
— 45.	35 Hen. 8. c. 2	Treason, &c. out of realm, II.	1171
— *49.	—	Forfeited estates, I.	186
— 50.	—	Fish, II.	885. 9
— 51.	—	Sacramental test. Dissenters, I.	297

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
34 Geo. 3. c. 22.		Roman Catholics. Oaths, I. 303	
35 Geo. 3. c. 12.	33 Geo. 3. c. 13	Date of royal assent to acts, I. 145	
_____ 21.		R. Catholic seminary, II. 429	
_____ 23.		Leases. Clergy, I. 529	
_____ *28.		Receiver general, I. 62	
_____ †29.		Elections. Parliament, I. 26 to 103	
_____ 30. s. 31.		Discharge from execution, II. 292	
_____ c. 32.		Subtraction of tithe, II. 78-80	
_____ *38.		Post roads, I. 272	
_____ 39.		Patents. Titles confirmed, I. 187	
36 Geo. 3. c. 7.		Post office. Larceny, II. 927	
_____ *25.		Civil bills, &c. I. 62. II. 63	
_____ 27.		Conspiracy to murder, II. 907	
_____ 29.	31 Geo. 3. c. 35.	Larceny. Witnesses, II. 260	
_____ 31.	30 Geo. 3. c. 48.	Judgment, Treason. Women, II. 1240	
_____ 32. }		Tumults, II. 636.	
P. by 40 Geo. 3. c. 96. }			
_____ 38.	11 Geo. 2. c. 19.	Replevin bonds, II. 110	
_____ 39.		Inferior courts, II. 36. 60	
_____ *45.		Cotton. Wool. Larceny, II. 968	
_____ 48.		Naturalization, I. 53. 309	
_____ *55.	13 Geo. 3. c. 78	Presentment roads, &c. I. 253-4. 264 to 277	
_____ *56.		Seamen. Forgery. <i>Ad.</i> 127	
*37 Geo. 3. c. 2. }		Yeomanry, I. 372	
P. by 42 Geo. 3. c. 68. }			
_____ 21.		Game, II. 865	
_____ 26.		Forgery, Bank, II. 1057	
_____ *27.	32 Geo. 3. c. 55	Sinking fund, I. 205 & <i>Ad.</i> 126	
_____ *36.		Trespass. Distress, II. 150	
_____ 40. }			
In force to 1 Aug. 1814 }	37 Geo. 3. c. 70.	Seduction. Soldiers. Sailors, II. 521	
47 Geo. 3. st. 1. c. 15 }			
_____ *44.		Leases. Parish estates, I. 534	
_____ 47.		Elections. Parliament, I. 33 to 103	
_____ 49.	32 Geo. 2. c. 28	Insolvents, II. 295 to 302	
_____ *54.		Forgery, Debentures, &c. II. 1071	
_____ *61.		Larceny. Linen, II. 991	
38 Geo. 3. c. 2.	32 Geo. 3. c. 58	<i>Quo warranto.</i> Informations, II. 179	
_____ 7. }			
P. by 40 Geo. 3. c. 96. }	38 Geo. 3. c. 73	Libels. Newspapers, &c. II. 665	
_____ 20.	37 Geo. 3. c. 127	Parliament. Demise of king, I. 147	
_____ *25.		Civil bills, &c. II. 63	
_____ 26.		Persons in execution witnesses, II. 101	
_____ 36.		Elections. Parliament, I. 61	
_____ 38.	25 Geo. 3. c. 18	Commission, <i>oyer and terminer</i> , II. 1106	
_____ 39.		Proctors' costs, <i>Ad.</i> 57	
_____ 47.	7 Geo. 3. c. 50	Post-office. Larceny, II. 927. 956	
_____ 53.		Forgery. Bank, II. 1053	
_____ 57.		Conspiracy to murder, II. 907	
_____ 59.		Convicts transported, II. 1230	
_____ *65.		Chairman. Sessions. Dublin, I. 159	
39 Geo. 3. c. 14. s. 23.		Underleases of tithes, I. 531	
_____ *c. 16.		Civil bills, &c. II. 63	
_____ *55.		Sessions, Recorder, II. 1119	
_____ *63.	18 Geo. 3. c. 18	Forgery, II. 1047. 1059	
40 Geo. 3. c. 19.		Justices of assize, &c. II. 48	
_____ 22.		Bankers. <i>Ad.</i> 44	
_____ 23.		Tithe agistment, I. 438	
_____ 24.		Burning land, II. 759	
_____ 27.	36 Geo. 3. c. 83	Maintenance of curates, I. 349	
_____ *29.		Representation act, I. 15. 21. & <i>Ad.</i> 105	

† This act incorporates several English statutes.

Table of the Statutes.

Irish Statutes.	English Statutes.	Subject matter.	Pages where found.
38.	39 & 40 Geo. 3. c. 67	Act of Union, I. 15 to 20. 143-7. 150-1-4 201 to 208. 356-7-8. 566. II. 43. 58	
39.		Exchequer-chamber, II. 41	
44.		Returning from transportation, II. 1232	
46.		First fruits, <i>Ad.</i> 11	
71.		Trespass. Mears and fences, I. 483. II. 150	
72.s.1to5.)	4 Geo. 2. c. 7	Ease of jurors, II. 246	
s. 6 & 7.)	24 Geo. 2. c. 18.	Special jurors' fees, II. 254	
*75.)		Commissioners. Charities, I. 663	
*79.		Quarantine, II. 744	
*80. s. 6.		Elections. Parliament. I. 40	
*c. 82.		Commission. Dilapidation, II. 86	
85.		Maynooth college, II. 431	
*88.		Highways, I. 266	

ERRATA

IN

Chronological Table of English Statutes.

Page 2. For *Ad.* in the third column opposite to 52 Hen. 3. c. 17. read I. 445.

P. 15. In the 6th line of the first column, the figures 14 are in some of the impressions omitted before Eliz. c. 3.—After s. 2 & 3. in the 19th line of the first column, should follow s. 5. and in the middle column opposite to it should be 15 Car. 1 c. 7.—And in third column the figures 1218 should be added.—And opposite to the figure 2 in the 40th line of the first column should be 15 Car. 1. c. 2.

P. 18. For 10 W. 3. c. 17. in second line of the middle column, read 10 W. 3. c. 11.—And opposite to the figures 17 in the 8th line from the bottom, should be in the middle column, 7. W. 3. c. 6. s. 7 & 8. and in the third column the figures 279 should precede 657.

P. 21. In line 25 of the third column after 358 should be *Ad.* 81.

P. 23. In the 6th line of the middle column after the figure 5 should be added 7 Geo. 2. c. 14.

P. 24. In line 26 of third column for *Ad* read I. 26.

P. 28. In line 13 from bottom of first column, delete the second figure of 5.—And in the following line for the figures 53 read 50.

✍ The chronological table of the Irish statutes is in some instances more full in pointing out the analogous English statutes; and any defect of this kind in the first table is supplied also by the references to the body of the work.

TABLE

Of the Contents

OF THE SEVERAL VOLUMES OF THE STATUTES.

The years in each volume are inclusive.

RUFFHEAD'S EDITION. (Quarto.)

Vol. 1	...	9 Hen. III. to 39 Hen. VI.	Vol. 10	...	5th to 10th of Geo. III.
2	...	1 Edw. IV. to 43 Eliz.	11	...	11th to 13th
3	...	1 Jac. I. to 9 & 10 W. III.	12	...	14th to 16th
4	...	10 & 11 W. III. to 12 Ann.	13	...	17th to 20th
5	...	1 Geo. I. to 2 Geo. II.	14	...	21st to 25th
6	...	3 Geo. II. to 19 Geo. II.	15	...	26th to 29th
7	...	20 Geo. II. to 29 Geo. II.	16	...	30th to 34th
8	...	30 Geo. II. to 2 Geo. III.	17	...	35th to 38th
9	...	3d & 4th of Geo. III.	18	...	39th to 41st sess. 1.

PICKERING'S EDITION. (Octavo.)

1	...	9 Hen. III. to 14 Edw. III.	22	...	30 Geo. II. to 32 Geo. II.
2	...	15 Edw. III. to 13 Hen. IV.	23	...	33 Geo. II. and 1 Geo. III.
3	...	1 Hen. V. to 22 Edw. IV.	24	...	<i>Index to preceding statutes.</i>
4	...	1 Ric. III. to 31 Hen. VIII.	25	...	2d and 3d Geo. III.
5	...	32 Hen. VIII. to 7 Edw. VI.	26	...	4th and 5th
6	...	1 Mar. to 35 Eliz.	27	...	6th and 7th
7	...	39 Eliz. to 12 Car. II.	28	...	8th, to 10th
8	...	13 Car. II. to 1 Jac. II.	29	...	11th and 12th
9	...	1 W. & M. to 7 & 8 W. III.	30	...	13th and 14th
10	...	8 W. III. to 1 Ann.	31	...	15th, to 17th
11	...	2 & 3 Ann. to 7 Ann.	32	...	18th and 19th
12	...	8 Ann. to 10 Ann.	33	...	20th and 21st
13	...	12 Ann. to 4 Geo. I.	34	...	22nd to 24th
14	...	5 Geo. I. to 8 Geo. I.	35	...	25th and 26th
15	...	9 Geo. I. to 1 Geo. II.	36	...	27th to 30th
16	...	2 Geo. II. to 8 Geo. II.	37	...	30th to 32nd
17	...	9 Geo. II. to 14 Geo. II.	38	...	<i>Index to 32 preceding sessions</i>
18	...	15 Geo. II. to 19 Geo. II.	39	...	33d and 34th Geo. III.
19	...	20 Geo. II. to 22 Geo. II.	40	...	35th and 36th
20	...	23 Geo. II. to 25 Geo. II.	41	...	37th and 38th
21	...	26 Geo. II. to 29 Geo. II.	42	...	39th to 41st sess. 1.

IRISH STATUTES. (Folio.)

1	...	3 Edw. II. to 11, 12 & 13 Jac. I.	11	...	17 & 18, 19 & 20 Geo. III.
2	...	10 Car. I. to 14 & 15 Car. II.	12	...	21st & 22d, 23d & 24th
3	...	17 & 18 Car. II. to 10 W. III.	13	...	25th and 26th
4	...	2 Ann. to 6 Geo. I.	14	...	27th to 29th
5	...	8 Geo. I. to 5 Geo. II.	15	...	30th and 31st
6	...	7 Geo. II. to 21 Geo. II.	16	...	32d and 33d
7	...	23 Geo. II. to 1 Geo. III.	17	...	34th to 36th
8	...	<i>This vol. contains the index</i>	18	...	37th and 38th
9	...	3 Geo. III. to 7 Geo. III.	19	...	39th
10	...	9 to 15th & 16th	20	...	40th

THE IMPERIAL STATUTES are printed in folio, quarto, and octavo.

TABLE

Of the Sovereigns of England,

FROM THE CONQUEST.

NORMAN LINE.

King's Names.	When their reigns began.	Reigned,		
		Years,	Months,	Days.
William the Conqueror	1066, October 14	20	10	26
William Rufus	1087, September 9	12	10	23
Henry I.	1100, August 2	35	4	—
Stephen	1135, December 1	18	10	25

THE SAXON OR PLANTAGENET LINE.

Henry II.	1154, October 25	34	8	12
Richard I.	1189, July 6	9	9	—
John	1199, April 6	17	—	12
Henry III.	1216, October 19	56	1	—
Edward I.	1272, November 16	34	7	21
Edward II.	1307, July 7	19	6	20
Edward III.	1327, January 13	50	5	8
Richard II.	1377, June 21	22	3	8

THE LINE OF LANCASTER.

Henry IV.	1399, September 29	13	5	21
Henry V.	1413, March 20	9	5	11
Henry VI.	1422, August 31	38	6	4

THE LINE OF YORK.

Edward IV.	1461, March 4	22	1	5
Edward V.	1483, April 9	—	2	11
Richard III.	1483, June 20	2	2	—

THE HOUSE OF TUDOR.

Henry VII.	1485, August 22	23	8	—
Henry VIII.	1509, April 22	37	9	6
Edward VI.	1547, January 28	6	5	9
Queen Mary	1553, July 6	5	4	11
Queen Elizabeth	1558, November 17	44	4	7

THE HOUSE OF STUART.

James I.	1603, March 24	22	—	3
Charles I.	1625, March 27	22	10	3
Charles II.	1648, January 30	37	—	7
James II.	1685, February 6	4	—	7

SINCE THE REVOLUTION.

William III.	1689, February 13	13	—	23
Queen Anne	1702, March 8	12	4	24
George I.	1714, August 1	12	10	10
George II.	1727, June 11	33	4	14
George III.	1760, October 25	—	—	—

INDEX

To the General Matter.

The Numerals refer to the volumes; the Ciphers to the pages; and *Ad.* to the *Addenda*.

- A**BATEMENT, injury of, II. 126
 ——— of actions, II. 219-220-1
 Abbey lands, molesting possessors, II. 535
 Abbreviations in writs, &c. II. 229
 Abduction, II. 910 to 916
 Abjuration, oath of, I. 289 to 296
 Abortion, producing it, II. 903
 Absolute rights of individuals, I. 1 to 12
 Accessories, when tried, II. 1196
 Accidental fire, II. 120
 Account, action of, II. 118
 Accountant general, II. 361 to 366
 Accounts of traders evidence, II. 259
 Acknowledging fine, &c. in others' names, II. 581
 Act of settlement, I. 180 to 184
 ——— of explanation, I. 184
 Acts private referred to judges, I. 145
 Acts continuing, *Ad.* 10
 Action of replevin, II. 107 to 113
 ——— by assignees, II. 113
 ——— upon promises, II. 114
 ——— popular or penal, II. 115 to 118
 ——— of account, II. 118
 ——— on the case, II. 120
 ——— possessory, II. 122 to 131.134 to 144
 ——— real, II. 131 to 134
 ——— of ejectment, II. 135 to 144
 ——— of trespass, II. 144 to 150
 ——— of nuisance, II. 152
 ——— of waste, II. 153-4
 Action for subtraction, II. 155 to 158
 ——— for disturbance, II. 159 to 163
 Adhering to king's enemies, II. 473
 Administration, Intestates, I. 655 to 660
 ——— special, I. 659
 ——— *de bonis non*, I. 661
 Administering oaths, II. 522. *Ad.* 93
 Admiralty court, I. 159. II. 58
 ——— commission, II. 1106. *Ad.* 130
 Adulteration of wine, &c. II. 747-8. *Ad.* 153
 Advocate, ecclesiastical courts, II. 53
 Advowson, I. 431 to 434
 ——— writ of right of, II. 160. 183, &c.
 Affidavit commissioners, II. 204
 Affinity, challenge for, II. 258
 Affray, II. 659
 Agistment, tithe of, I. 438
 Aid of the king, praying, *Ad.* 42
 Agreement, parol void, II. 114
 Alehouse keepers restrained, II. 458
 Alien's duty, I. 194
 ——— capacity to inherit, &c. I. 151.304
 ——— their disabilities, I. 153. 305
 ——— naturalized, I. 306 to 310
 ——— parties to actions, II. 257-8
 Alienation of glebes, &c. I. 346.522 to 535
 ——— by tenant in tail, I. 446
 ——— in mortmain, I. 507 to 511
 ——— to hold of chief lord, I. 513
 ——— by deed, I. 515 to 563
 ——— by matter of record, I. 564 to 577
 Alieration

- Alienation by special custom, I. 578 to 580
 — by devise, I. 581 to 584
 Allegiance, oath of I. 289 to 296
 — withdrawing from, II. 481
 Ambassadors' privilege, II. 212.464
 Amendment, statutes of, II. 280 to 290
 Amends, tender of, II. 150
 Amercement, II. 1241. *Ad.* 78
 Anniversaries kept holy, II. 457-8
 Annuity deeds inrolled, I. 602
 Anonymous partnerships, I. 556 to 563
 Apostacy, crime of, II. 372-3
 Appeal, courts of, II. 39 to 43. 51 to 53
 — proceedings in nature of, II. 276 to 291
 — of felony, II. 1187 to 1190
 Appearance in equity, II. 351 to 357
 Apportionment of rents, I. 458-9
 Apprentices to trades, I. 393 to 401. *Ad.* 30
 — to attornies, II. 21 to 30
 Apprevement of commons, I. 439
 — in felony, II. 1197
 Approver, compelling one to be, II. 581
 Arbitration, reference to, II. 12
 Armour, embezzling the king's, II. 514
 Arms, right of carrying, I. 11.
 — right of keeping restrained, II. 559 to 576. *Ad.* 97
 — riding, &c. with, punished, II. 658
 Army, prerogative as to, I. 157
 — regular, I. 377 to 380. *Ad.* 27
 Arraignment, and its incidents, II. 1196
 Arrest in civil cases, II. 196 to 207
 — of judgment, II. 280 to 286
 — in criminal cases, II. 1137 to 1161
 Arson, II. 919
 Article in writing, II. 112
 Articles of religion, I. 323. II. 379
 Artificers, seducing, II. 732 to 737
 Assault, action of, II. 222-3-4. 272-3-4
 Assaulting privy counsellor, &c. II. 508
 — lords &c. coming to parliament, II. 659
 — on account of gaming, II. 660
 — master, II. 918. *Ad.* 116
 Assemblies riotous, II. 614 to 644
 — unlawful, II. 644 to 655
 Assent royal to bills, I. 144
 Assent and consent, I. 324
 Assessed taxes, I. 199
 Assets, what shall be, I. 506. II. 337
 Assignee of judgment, I. 594-5-6
 Assignee of reversion, II. 113
 — of lease, II. 114
 Assigning breaches, II. 225
 Assistant barrister, I. 62. II. 63. *Ad.* 62
 Assize, courts of, II. 43 to 50
 — writs of, II. 126 to 131
 Assurance policies, I. 600
 Attaint, proceeding in, II. 276 to 280
 Attornies, justices of peace, I. 247
 — how appointed, II. 13 to 31
 — where to practise, II. 16 to 31
 — practising in others' names, II. 18
 — number of their clerks, II. 21
 — punished for malpractice, II. 21. 600.
 — names on writs, II. 24.
 — oaths on admission, II. 30
 — costs, how recovered, II. 31
 Attornment dispensed with, &c. I. 514
 Authors, copyright of, I. 584 to 590
 Avowry, general, II. 111
- B
- Bail, special, II. 196 to 207. *Ad.* 73
 — taken by commissioners, II. 204
 — before judges, II. 205
 — justified, II. 205
 — substitute for, II. 206
 — in anothers' name, II. 581
 — in criminal cases, II. 1162. &c.
 Bail-bond assigned, II. 206.331. *Ad.* 76
 Bankers' act, I. 552 to 556. *Ad.* 43
 — notes, &c. forging, II. 1047 to 1064
 Bank tokens counterfeiting, II. 496 to 501. *Ad.* 89
 Bankrupt, who may be, I. 615 to 620.
 — by what acts, I. 615-6
 — obtaining commission of, I. 620-1
 — commissioners of, appointed, I. 622
 — assignees of, chosen, I. 622-3-4
 — proceeding on commission, with relation to bankrupt, and his property, I. 622 to 642. *Ad.* 48.
 — with relation to creditors, their debts and dividends, I. 642 to 648. *Ad.* 49 to 53
 — duty of assignees enforced I. 648-9 *Ad.* 53-4
 — agent and messenger, I. 649. 650
 — funds where kept, I. 649. *Ad.* 53.
 — proceedings recorded and proved, I. 650-1 *Ad.* 55
- Bankrupt,

- Bankrupt expenses regulated, I. 651-2
 ——— commissioners, &c. protected
 against actions, I. 652-3
 ——— duration and validity of commis-
 sion, I. 653
 Banks, mischief to, II. 1034
 Banns, publication of, I. 407
 Bargain and sale inrolled, &c. I. 539
 Barking trees, II. 947-8
 Barren land, tithe, I. 434. II. 94
 Barretry, II. 598-9
 Barristers' admission, &c. II. 31 to 34
 ——— malpractice punished, II. 600
 Bastards, maintenance of, I. 414-5-6.
 Ad. 32. 88.
 ——— settlement of, I. 416-7 *Ad.* 35.
 ——— murder of, II. 903
 Bastardy, certificate of, II. 231, *Ad.* 152
 Battery, *Vide* Assault
 Beaupleader abolished, II. 269. *Ad.* 78
 Benefit of clergy, II. 1214 to 1239
 Benevolences abolished, *Ad.* 2
 Betting, *Vide* Gaming
 Bigamy, II. 751
 Bill of costs recovered, II. 31
 ——— of discovery, II. 343-4-5
 ——— of exceptions, II. 263-4
 ——— of exchange, I. 606 to 614
 ——— for injunction, II. 342-3
 ——— of foreclosure, &c. II. 338 to 341
 ——— for renewal, II. 342
 ——— to perpetuate testimony, II. 355
 ——— dismissed, II. 371
 ——— forgery of, II. 1044 to 1064
 Billetting regulated, I. 379. *Ad.* 27
 Bishops, election of, I. 314 to 317
 ——— leases, &c. of, I. 522 to 535
 ——— their demesnes, I. 533-4
 ——— rent recovered, II. 155
 Black act, II. 624
 Blanching copper, II. 490
 Blasphemy, II. 439. 440
 Bog, partition of, I. 435-6-7
 ——— lease of, I. 532-3-6
 Bond, in replevin, II. 110
 ——— payment of, pleaded, II. 224
 for performance of covenants, II. 225
 Book, of common prayer, I. 324-5.
 II. 380 to 385
 ——— copyright in, I. 585
 ——— of account evidence, II. 259
 ——— popish, using, II. 436
 Botes, tenant's right to, I. 449
 Bottomry bonds, I. 601
 Breaches assigned, II. 225-6
 Breaking prison, II. 584-5-6
 — houses, II. 922
 Bribery, I. 93. II. 610. *Ad.* 9
 Bridewells, *Ad.* 136
 Bridges, I. 275. *Ad.* 18
 British ships, I. 381. *Ad.* 28
 Buggery, II. 918
 Bulls papal, II. 480, 531
 Burglary, II. 921
 Burning king's ships, II. 519
 — land, II. 759
 — corn in the straw, II. 763
 — houses, &c. II. 120 919. 920
 — in the hand, II. 1220. *Ad.* 148
 Butlerage, I. 193. *Ad.* 12
 Busts, property in, *Ad.* 47
- C**
- Calendar, or stile, I. 464
 ——— of prisoners, II. 1109. *Ad.* 134
 Canals mischief to, I. 1035
 Canons, authority of, I. 165
Capias ad respondendum, II. 192
 ——— *utlagatum*, II. 194
 ——— *pro fine*, II. 268
 ——— *ad satisfaciendum*, II. 291 to 308
 Carcases stealing, &c. II. 978
 Carnal knowledge of child, II. 916-7
 Cartbote restrained, I. 440
 Catholics, Roman, *disabled*
 to vote at elections, I. 88-9. *Ad.* 4 to 7
 — to sit in parliament, I. 139 to 143
 — to succeed to the throne, I. 150-5-6
 — to be sheriffs, I. 224-5
 — to be justices of peace, I. 246
 — to hold offices of trust or power,
 I. 300 to 304
 — as to marriages, I. 410
 — excluding children from mainten-
 ance, I. 414
 — as to guardianship, I. 419
 — offices in corporations, I. 422
 — voting at elections of magistrates,
 I. 426
 — presenting to livings, I. 432-3-4
 — descent and transfer of estates,
 I. 489 to 503
 — acquisition of landed property,
 I. 503-4-5
 — being attornies or barristers, II. 30
 to 34
 — advocates or proctors, II. 53-4
 Catholics

- Catholics, jurors or grandjurors, II. 258.
Ad. 141
 — keeping arms or horses, II. 559
 to 576
 — punishable for non-conformity,
 II. 376 to 396
 — for recusancy, II. 396 to 416
 — for saying or hearing mass, II. 416
 to 426
 — for instructing youth, II. 426 to
 483
 — for foreign education, II. 433
 — for using popish books, &c. II. 436
 to 439
 — for assemblies at wells, II. 438
 — using popish bulls, II. 479
 — Jesuits, coming into the realm, II.
 480
 — defeating protestant succession,
 II. 483
 — procuring appointments to bishop-
 ricks, &c. from Rome, II. 525
 — suing out citations, &c. from Rome,
 II. 529
 — purchasing bulls from Rome, II.
 531
 — obeying fulminations of the pope,
 II. 532
 — suing appeals to Rome, II. 533
 — exercising ecclesiastical jurisdic-
 tion, II. 535 to 541
 — Maintaining pope's authority, II.
 541
 — bringing superstitious things into
 the realm, II. 543
 — sending money to foreign semi-
 naries, II. 544
 — refusing to take the oath of su-
 premacy, &c. II. 548 to 575
 — refusing to make the declaration
 against popery, II. 559
 — marrying protestants, II. 749.
 915-6
 Cattle, larceny of, II. 977-8
 — mischief to, II. 624. 1019
 Certificate, poor, I. 280
 Certificate of bankruptcy, I. 633 to 638
 — of bastardy, II. 231. *Ad.* 152
 — for costs, II. 273-4
Certiorari, II. 96. 1113 to 1119. *Ad.* 63.
Cestui que vie, death of, I. 459. II. 156
 Chalking, maiming, II. 908 to 910
 Challenge of jury, II. 232, 257. 1204
 — to fight, II. 660
 Champerty, II. 602-3-4
 Chancellor, his precedence, I. 359
 — his duties and powers, II. 332
 to 371, *et sparsim*,
 Chancery, its jurisdiction, II. 38, *et*
sparsim,
 Chance medley, *Ad.* 119
 Charitable bequests, I. 663
 — uses, I. 510-1. II. 333 to 337
 Charter-schools, I. 400
 Cheating, II. 696 to 700. 1003 to 1006
 Children, maintenance of, I. 413-4
 — debauching, II. 916-7
 Choses in action, larceny, II. 954 to 958
 Church of England, &c. I. 155-6
 — king head of, I. 164
 — building, &c. I. 353. *Ad.* 22
 — penalty for not going to, II. 396 to
 416
 — mischief to, II. 621
 — affray in, II. 659
 — larceny in, II. 995
 Churchwardens, I. 352 to 355
 Citations out of diocess, II. 88
 — *ex mero officio*, II. 1127
 Civil bill, jurisdiction, II. 63, &c. *Ad.* 62
 Civil survey, I. 178
 Civil list, I. 268-9
 Clandestine marriages, II. 749
 Clergy, parliament, I. 36. 53
 — not to be farmers, &c. I. 311 to 314
 — ordination of, I. 322 to 326
 — residence of, I. 326 to 331
 — their glebes and glebe-houses,
 I. 331 to 346
 — alienation by, I. 346. II. 522 to
 534
 — their right to emblements, I. 458
 — their remedies for tithes, II. 73
 to 84
 — for dilapidations, II. 84 to 88
 — privilege of, II. 207
 — benefit of, II. 1214 to 1239
 Clerks of attornies, II. 21 to 30
 — in chancery, II. 368-9
 — of peace, how appointed, II. 1120
 — of market, II. 1124
 — of the crown, II. 1212 *et sparsim*
 Coin, treason in respect to, II. 474 to
 481
 — felonies, &c. in respect to, II. 484
 to 504
 Collieries, mischief to, II. 1029
 Combination, II. 621-3. 705 to 732
 Commission of *oyer and terminer*, II.
 1105
 Commissioners

- Commissioners of great seal, I. 359. II. 38. 337
 ——— for taking bail, II. 204
 ——— for taking affidavits, II. 204
 ——— of charitable uses, II. 333, &c.
 ——— of bankrupts, I. 622, &c.
 ——— of excise, and appeals, II. 1129
 Committees unlawful, II. 645. 654. 722.
 Common recovery, I. 573 to 577
 ——— of pasture, I. 439
 ——— of estover, I. 440
 ——— nuisances to, II. 763-4
 Common prayer, book of, I. 324. II. 376,
 Common pleas, court of, II. 37
 Common summons, *Ad.* 70
 Composition rent, I. 176
 Compounding informations, II. 605
 Conformity of papists, &c. I. 491-9
 Consanguinity, marriage, I. 402-3
 ——— challenge, II. 258
 Consolidated fund, I. 203
 Constables, their duties, &c. I. 252, &c.
 Conspiracy to murder, II. 508. 907
 Consultation, writ of, II. 94
 Contracts for sale of goods, I. 596
 Conventicles unlawful, II. 385 to 396
 Convention act, II. 654
 Converts from popery, I. 491. II. 576
 Conveyances, usurious, I. 515. II. 695
 ——— fraudulent, I. 516-7. II. 1005-6
 Convicts transported, II. 1220 to 1239
 Coparceners, I. 475 to 487
 Copyhold tenure, I. 444-5. 578, &c.
 Copyright, I. 585 to 590. *Ad.* 47
 Corn distraining, II. 1-2
 ——— lezers of, II. 786
 ——— preventing export of, &c. II. 637
 ——— mischief to, II. 1009 to 1019
 Corody, I. 166
 Coronation oaths, I. 154-5
 Coroners how appointed, &c. II. 235 to
 240. *Ad.* 15
 Corporation act, I. 423
 Corporations, their creation, powers, &c.
 I. 420 to 430
 Costs of attornies, &c. II. 31
 ——— of plaintiff or defendant, II. 129.
 269 to 275. 286 to 289. 371
 ——— of proctors, &c. *Ad.* 57
 Cosherers punished, II. 787
 Counsel. See Barrister
 — assigned to prisoners, II. 1199. 1203
 Counterfeiting king's seals, II. 474
 Counterfeiting coin, II. 474 to 479
 County court, II. 35, &c.
- Courts, of common law and equity, II.
 34 to 51
 ——— ecclesiastical, II. 51 to 57. 1126
 ——— military and maritime, II. 57-8.
Ad. 63
 ——— of special jurisdiction, II. 59. to 72
 ——— of criminal jurisdiction, II. 1105
 to 1129
 Court-leet. *Ad.* 135
 Coventry act, II. 908
 Crown settlement of, I. 150 1
 ——— lands and rents, I. 174 to 187.
Ad. 11
 Curates' maintenance, I. 349. 350
 Cure perpetual, I. 350-1
 Cursing and swearing, II. 440
 Curtesy, tenant by, I. 461-2
 Customs, I. 192, &c.
 ——— barbarous, II. 763
 Custos rotulorum, II. 1119. *Ad.* 135
- D
- Damage cleer, *Ad.* 78
 Days in bank, II. 182 to 186
 Darrcin presentment, II. 160 1-3
 Deacons' ordination, I. 322-3
 De donis statute, I. 446
 Death of *cestui que vie*, I. 459. 460. 472
 ——— of debtor in execution, II. 291
 ——— of king no abatement, II. 216
 ——— of party no abatement, II. 221-264.
 Debauching child, II. 916-7
 Debtor, death of, II. 291 337
 ——— escape of, II. 292-3-4. *Ad.* 80
 ——— maintenance of, II. 299. *Ad.* 84-5
 Debt, for rent, I. 459. II. 155-6 7
 ——— against heir and devisee. I. 583
 ——— mutual, set off, II. 222
 ——— limitation in, II. 222 3 4
 ——— see also other heads, *sparsim.*
 Deceit, writ of, *Ad.* 64
 Declaration against popery, I. 140
 ——— against transubstantiation, I. 292
 ——— delivering to prisoner, II. 96-7-8
 Deeds, usurious, I. 515. II. 695
 ——— fraudulent, I. 516 7. II. 1005-6
 ——— registry of, I. 545 to 563
 Deer stealing, &c. see Game,
 Defacing names, &c. on watches, &c.
 II. 596
 Defamation, suits for, II. 1126-7
 Defence acts, I. 373 to 377
 Defending pope's jurisdiction, II. 479
 Deforcement of dower, *Ad.* 66
- B
- Delays

- Delays of justice, I. 11. *Ad.* 70
 Delegates court of, II. 52-3-8
 Delegation unlawful, II. 654
 Demand of money, felonious, II. 1002
 Demesnes of bishops, I. 533-4
 Demise of crown, I. 145-6-7, 153. 359
 ——— parol, I. 518
 Demolishing see Malicious Mischief
 Demurrer, II. 227-8-272
 Denizens, I. 305
 Descent not to toll entry, II. 122
 Deserted children, I. 285-6
 Desertion of soldiers, &c. I. 385. II. 519
 ——— persuading to, II. 546
 Detainer forcible, II. 123. 655-6-7
 ——— on prisoner, II. 97
 Detinue, limitation in, II. 222
Devastavit, I. 662-3
 Devises of estates in fee, I. 581
 ——— of lands in writing, I. 581
 ——— how proved, I. 582
 ——— fraudulent, I. 583
 Dilapidation, remedy for, II. 84 to 88
 Disabling statutes, I. 522 to 532
 Disclaimer, plea of, II. 150
 Discontinuance of action, II. 216
 ——— of estate II. 128
 Discovery, bill of, II. 343-799, *et sparsim.*
 Disfiguring person, II. 908-9
 Disguise, using for unlawful purpose, II.
 585. 624-9. 828. 885
 Dismission of bill, II. 371
 Disorderly persons, II. 767 to 782
 Dispensaries for poor, I. 288
 Dispensations, prerogative, I. 174, 317
 Dispensing with laws, I. 11. *Ad.* 3
 Disseisin remedies for, II. 126 to 181
 Dissenters, I. 297. II. 376 to 396. 414
 5. 426
 Distress, of what it may be, II. 1.
 ——— for what rent, II. 3
 ——— how disposed of II. 3 to 5. *Ad.*
 56
 ——— rescue or removal of, II. 5 to 9
 ——— when illegal, II. 9-10-11
 ——— for heriots, II. 11
 ——— see also Replevin, *et sparsim.*
 Distribution, statute of, I. 655 6 7
 Disturbance of pasture, II. 159
 ——— of patronage, II. 160
 ——— of religious assemblies, II. 391-4
 422
 Doctors of civil law, II. 53
 Dollars counterfeiting, II. 496, &c.
 Dower assigned, barred, I. 462 3
 Dower forfeited, II. 1245
 ——— writ of, II. 183 4-5
 Down survey, I. 179
 Drunkenness restrained, II. 458, &c.
 Duration of parliament, I. 147
 Dwelling-house, breaking, II. 921-2
 ——— setting fire to, II. 920. 919. 920
 ——— robbing, &c. from, II. 995-6-7
- E
- Ear, cutting off, II. 908
 Earnest to bind bargain, I. 596
 Ecclesiastical persons, see Clergy
 ——— courts, II. 51 to 56-1126-7-8
 ——— jurisdiction II. 535 to 541
 Education of papists, &c. II. 384-5-426.
 &c. 433, &c.
 Egyptians, II. 755
 Ejectment, II. 135 to 144-288
 Election of bishops, I. 314-5-6
 ——— of officers in corporations, I. 422
 to 430
 ——— see also Parliament
Elegit, tenant by, I. 577. II. 134
 ——— execution upon, II. 309
 Ambassador, see Ambassador
 Embezzlements, petty, II. 930-1
 ——— see also Larceny
 Emblements, I. 458. *Ad.* 41
 Embracery, II. 611
 Enabling statutes, I. 520 to 535
 English, writs, &c. to be in, II. 228-9
 Enlisting hastily, I. 380. *Ad.* 27.
 Enquiry, see Inquiry.
 Enrolment, see Inrolment
 Entry to avoid fine, I. 572
 ——— remedy of, II. 122
 ——— forcible, II. 123-4, 655-6 7
 ——— writ of, II. 125
 Equity, proceedings in, II. 332 to 371
 Error, courts of, II. 39 to 43
 ——— amended or cured, II. 280 to 290
 ——— writ of, II. 286 to 290. *Ad.* 79
 Escape of debtor, II. 292-3-4. 358. *Ad.* 80
 ——— of felons, II. 583-4
 Escheat, title by, I. 488 to 505
 ——— in felony, II. 1241-2-3. *Ad.* 150
 Escheator, his duty, &c. II. 166 to 173
 Essoin, II. 187 8-9. *Ad.* 69
 Estates of inheritance, I. 446 7
 ——— not of inheritance, I. 447 to 463
 ——— less than freehold, I. 464 to 469
 ——— upon condition, I. 469-470
 ——— in possession, &c. I. 471 to 474
 Estates

- Estates in severalty, &c. I. 475 to 487
 — *pur auter vie*, I. 506
 Estovers, right to, I. 440-1-9-462
 Estreats discharged, II. 1244. *Ad.* 146.
 Evidence, shop books, II. 259
 — printed statutes, II. 259
 — and see particular heads.
 Examiners of attornies, II. 27, &c.
 Exceptions, bill of, II. 263-4
 Exchequer, its jurisdiction, II. 38
 — chamber, II. 39, &c.
 Excise jurisdiction, II. 1129
 — revenue of, I. 195 6
Excommunicato capiendo, writ of, II. 89
 Execution, civil, II. 291 to 331
 — criminal, II. 1251
 Executors to make inventories, &c. I. 657
 — actions by and against, I. 661 2
 — *de son tort*, I. 662
 — see also Bequests, Rents, &c.
 Exemplifications evidence, II. 230-1
 Exigent, II. 192 to 196
 Extent, execution, II. 310
 Exportation of wool, &c. II. 671
 — of tools, II. 737
 Extortion by officers, II. 613. *Ad.* 95
 — of toll, II. 613. *Ad.* 96
- F
- Faculties, prerogative. I. 174-317-8
 False judgment, plea of, II. 290
 — news, spreading, II. 660
 — prophecies, II. 661
 — imprisonment, II. 919
 — pretences, II. 1003-4
 — accusation, II. 1165
 Falsifying records, II. 580-1
 — coin, see Coin
 Fat, see Cattle
 Felony, see Offences, *et sparsim*.
 Fees in criminal cases, II. 1209, &c. *Ad.* 147.
 — see also Coroners, Gaolers, Justices, Sheriffs, &c.
 Females' right to the crown, I. 152
 Fences, I. 479 to 485. II. 1007
Fieri facias, II. 308-9
 Fines, I. 566 to 577. II. 289
 — for renewal, II. 342-3-9-350
 — acknowledging in others' names, II. 581
 — not to be excessive, II. 1241
 Fire accidental, II. 120
 — negligent, II. 920
 — wilful, II. 919-920, and see Riot, Malicious mischief.
 Fire-works prohibited, II. 765
 First fruits, I. 166 to 173. *Ad.* 11. 22.
 Fish, laws respecting, II. 868 to 900
 Forcible entry, &c. II. 123, &c. 655, &c.
 — abduction, II. 910-1
 Foreclosure, bills for, II. 338, &c.
 Foreigners naturalized, I. 305 to 310
 Foreign education, II. 433, &c.
 — service, II. 509 to 514
 — pleas, I. 1206
 — see also Coin, Forgery, Trial, &c.
 Forests, I. 188. II. 59
 Forestallers, II. 700-1-2
 Forfeited estates, I. 178 to 187. *Ad.* 151
 — recognizances, I. 188. *Ad.* 146
 Forfeitures, title by, I. 507, &c.
 — of felons, II. 1241, &c. *Ad.* 150
 Forgery of deeds, &c. II. 1042 to 1047
 — of bankers' notes, &c. II. 1047 to 1064. *Ad.* 124
 — of foreign bills, &c. II. 1064
 — of securities of public companies, II. 1066 to 1074
 — with respect to public funds, II. 1068, &c. *Ad.* 125 6
 — with respect to land tax, II. 1076
 — lottery tickets, II. 1077
 — stamps, II. 1078, &c.
 — post-office, II. 1081.
 — seamen's wages, II. 1082. *Ad.* 126
 — soldiers' pensions, II. 1087
 — naval stores, II. 1087
 — excise, &c. II. 1088-9
 — receiver general, &c. II. 1088 *Ad.* 127
 — registry of deeds, &c. II. 1091
 — suitors' money, II. 1092
 — receiver of prebends, II. 1093
 — marriage registers, II. 749 1093
 — oaths of catholics, II. 1093
 — wandering soldiers, &c. II. 1093
 — Mediterranean pass, II. 1093
 — quarantine certificate, II. 1095
 — stamps on plate, II. 1096, &c.
 — stamps on linen, II. 1100
 — stamps on paper, *Ad.* 128
Forma pauperis, suit in, II. 271-5
Formedon, writ of, II. 131
 Fortune tellers, II. 755 6
 Foundlings, I. 285
Frankalmoign tenure, I. 444
 Frauds, statute of, see 29 Car. 2. c. 3.
 Eng. in Chronological Table
 Fraudulent

Fraudulent devises, I. 533
 Freeholders, elections by, I. 21 to 42.
 80 to 96. *Ad.* 3-4
 — jurors, II. 234. 1204
 Freemasons, II. 646
 Freeman, elections by, I. 43 to 49
 — *mandamus* to admit, II. 179 to 182,
 Ad. 68
 Fresh suit, II. 1146
 Fruit trees, II. 931-7. 1007
 Funds, sinking, I. 204
 — forgery, II. 1068 to 1077. *Ad.* 125-6
 Furniture, larceny, II. 931

G

Game, certificates, I. 199
 —, qualification for killing, II. 821
 to 826. 857 to 862
 — keeper appointed, II. 826. 858
 — killing on Sunday or at night, II.
 866
 Game-laws, general provisions of, II.
 827. 856. 859 to 862 7
 — respecting deer, II. 829 to 837.
 862-3-4
 — hares, II. 837 to 842. 864-5
 — conies, II. 842-3-4. 864-5
 — hawks, II. 844-5-6-9. 856
 — swans, II. 846-7
 — partridges, II. 847 to 850. 865-6
 — pheasants, II. 847 to 850. 865-6
 — doves or pigeons, II. 850-1. 865.
 — water fowl, II. 851-2. 865
 — grouse, black game and red game,
 II. 852-3-4. 865-6
 — herons, II. 855
 — eggs of wild fowl, II. 855. 865-6
 — animals destructive of, II. 856. 868
 Gaming unlawful, II. 792 to 820
 — cheating at, II. 801
 Gaols regulated, &c. I. 225 to 235.
 Ad. 14 & 15
 — breaking, II. 584-5-6
 — delivery, II. 1108 to 1112. *Ad.* 134
 Gaolers. See Approvers
 Gardens, larceny, II. 931
 General avowry, II. 111-2
 Gifts of goods, fraudulent, I. 596
 Glebes, glebe-houses, I. 326 to 346
 Gold. See Coin
 Good behaviour, security for, II. 1101
 Grain obstructing passage of, II. 637 to
 643. 1015-7-8
 Grand jurors, who to be, II. 1166. *Ad.* 141
 — serjeanty, I. 444

Great distress, II. 189. *Ad.* 70
 Great seal, counterfeiting, II. 474
 Grouse. see Game.
 Guardian testamentary, I. 418 to 420
 — in socage, I. 445
 Gunpowder plot, II. 457
 Gypsies, II. 755-6

H

Habeas corpus Act, I. 9. II. 102. 1203
 — *ad respondendum*, II. 96-7-8
 — *cum causa*, II. 98
 — *ad testificandum*, II. 100
 — *ad subjiciendum*, II. 101 to 106
Habere, fees thereon, II. 316-7-8
 Hand, burning in, II. 1220. 1233. *Ad.*
 148
 Hard labour, punishing by, II. 1234,
 &c. *Ad.* 149
 Hares, Hawks, Herons, Heathfowl.
 see Game
 Head of the church, I. 164
 Heath, burning, II. 836. 863
 Hedges, mischief to, II. 934-5
 Heiress, abduction of, II. 912-3-4
 Heresy, crime of, II. 373-4
 Heriot, distraining for, II. 11
 Highways, repairing, I. 257 to 275
 Ad. 15 to 18
 — robbery in or near, II. 1000-1-2
 Holding over, I. 467-8. *Ad.* 41
 Holidays, II. 448
 Homicide, II. 901. to 908. *Ad.* 119.
 Hop-binds destroying, II. 1008
 Horses, sale of, I. 596-7-8-9
 — loss of, II. 121
 — working by tail, II. 763
 — dealing in, II. 785
 — larceny, II. 977
 Horse-races. II. 818
 Hospitals, I. 287-8 420-1. *Ad.* 19
 House-bote, I. 440-1-9
 Houses, burning, II. 120. 919. 929
 — breaking, II. 922
 — robbery of or in, II. 995 to
 1002
 — of poor, I. 281 to 286
 — of correction, II. 1132-4. 1234.
 Ad. 149
 Hue and cry. II. 1146 to 1155
 Hundredors, jury, II. 235-6
 Hundred, action against, II. 1146 to
 1155
 Hunting. see Game
 Husband and wife, I. 402 to 412

Idem.

I

Identitate nominis, *Ad.* 71
 Idiot, custody of, I. 190
 Idleness restrained, II. 767 to 791
 Imbezzling, see Armour. Embezzling.
 Impeachment, parliamentary, II. 1202
 Importing crosses, &c. II. 543
 — counterfeit money, see Coin
 Imprisonment beyond the seas, I. 7
 — for small debts, II. 62
 Incorporated societies, I. 280 to 283
 Incurable rogues, II. 771-2
Indicavit writ of, II. 94
 Indictment prosecuting by, II. 1166 to 1185
 Infants, not to vote at elections, I. 49
 — not to sit in parliament, I. 53
 — marriage of, I. 403 to 406
 — guardianship of, I. 418-9
 — suit against, II. 216-7
 — disabilities supplied in equity, II. 348 to 351
 — suit by next friend, *Ad.* 76
 — abduction of, II. 910 to 916
 — rape, &c. of, II. 916-7
 Inferior courts, II. 60 to 72
 Infirmaries of counties, I. 287
 Information, on penal statutes, II. 115-6-7-8
 — of intrusion, II. 174
 — *quo warranto*, II. 176-7-8
 — compounding, II. 605
 — how exhibited, II. 1186
 — evidence, *Ad.* 103
 Injunction bills, II. 342-3
 Inland taxes, I. 199
 Innholder liable for loss of horses, II. 121
 Inns of court, II. 33-4
 Inquest of office, II. 164 to 170
 Inrolment of bargain and sale, I. 539-540
 — of recognizances, I. 540 to 544
 — of fines and recoveries, I. 568-9. 570-5
 — of deeds of annuity, I. 602-3 4
 Insolvents discharged, II. 295 to 308. *Ad.* 82
 Instance court of admiralty, II. 58
 Insurance policies, I. 600-1-2
 Insuring in lotteries, II. 811-4
 Interest of money, I. 605-6. *Ad.* 48
 Intestate, administration to, I. 655-6-7
 Intrusion, information of, II. 174
 Inventory by executors, &c. I. 657-8
 Issues on jurors, II. 237-8

C

J

Jeofails, cured, II. 280 to 290. 330
 Jesuits relieving, &c. II. 417-8. 433, &c. 481
 Joint-tenancy, I. 475 to 487, *Ad.* 42
 Jointure, bar of dower, I. 462-3
 Judges, their commissions, I. 158-9
 — killing them, II. 479
 Judgment, prior to deed, I. 551
 — assignment of, I. 594-5-6
 — as in case of a nonsuit, II. 256
 — its incidents, II. 264 to 275, *Ad.* 79
 — amended, cured, II. 280 to 286
 — in criminal cases, II. 1240 to 1244
Jure patronatus, II. 163
Juris utrum, II. 163
 Jury, trial by, II. 231 to 264. 1199 to 1214
 Justices of peace, their appointment, qualification, &c. I. 240 to 251
 — their jurisdiction, I. 590-1-2. II. 1101-2-3. 1112 to 1119. 1129 to 1136 *et sparsim*
 Justices of assize, &c. II. 43 to 51. *Ad.* 61
 — of *oyer* and *terminer*, &c. II. 1108 to 1112
 Justifiable homicide, II. 901
 Justifying bail, II. 205

K

Keeper, lord, II. 38
 Kidnapping, II. 919
 King, his title, I. 148 to 151. *Ad.* 11.
 — his royal family, I. 152-3
 — his councils, I. 153-4
 — his duties, I. 154-5-6
 — his prerogative, I. 157 to 165
 — his revenue, I. 165 to 209
 — demise of, I. 146-7. 153. 359. II. 1110
 — limitation against, II. 170 to 174.
 — his debts recovered, II. 320 to 331
 — treason against, II. 470 to 483
 — felonies against, II. 484 to 524
 — misprisions, &c. against, II. 544 to 580
 King's inns, II. 33-4. *Ad.* 2.

L

Labour, hard, II. 1234. &c. *Ad.* 149
 Labourers, I. 386. II. 785

Lapse,

- Lapse, I. 511 *et sparsim*
 Larceny, II. 922 to 1002
 — by servants, II. 922. *Ad.* 120
 — by clerks, II. 924. *Ad.* 120-1
 — respecting post office, II. 925 to 930
 — respecting trade, II. 930-1
 — respecting lodgings, II. 931
 — of trees, &c. adhering to freehold, II. 931 to 948
 — of roots, II. 949 to 951
 — of lead, &c. from houses, II. 951
 — from mines, II. 953
 — of records, II. 581. 954
 — of choses in action, II. 954 to 958
 — respecting wrecks, II. 958 to 977
 — of horses, II. 977
 — of sheep, cattle, &c. II. 978 to 982
 — of dogs, II. 982-3-4
 — respecting woollen manufacture, II. 985-8
 — linen, cotton, &c. manufacture, II. 987
 — from ships, &c. II. 992
 — from wharfs, &c. II. 993
 — from churches, &c. II. 995
 — from dwelling house, II. 995-6-7
 — from shops, &c. II. 997-8-9
 — from person, II. 999 to 1002
 Lazarets, escaping from, II. 740 to 747
 Lead, stealing, &c. II. 590 to 595. 951-2-3
 Leap year, I. 464 to 467
 Leases, what valid, I. 346. 520 to 536
 — assigned or surrendered, I. 518.
 — renewal of, I. 535. II. 342-3. 348 to 351
 — and release, I. 540
 Lecturers licensed, II. 382-3
 Leet court. *Ad.* 135-6
 Letters of marque, I. 157
 — missive, I. 316
 — threatening, II. 623-8 9
 Levitical degrees, I. 402 3
 Levying war, II. 470-1-2
 Lezing of corn, II. 786
 Libel, II. 661 to 671. *Ad.* 106
 Liberties and rights, I. 1 to 12. *Ad.* 2-3
 Life estates, I. 447 to 463
 Limitation, for penal actions, II. 117
 — for making entries, II. 122
 — for writs of assize, II. 130
 — for writs of *formedon*, II. 131
 — for writs of right, II. 133
 Limitation, for actions against officers, II. 148-9
 — in actions personal, II. 222-3-4
 — in writs of error, II. 289
 See also particular heads
 Linen, see Mischief, Larceny, Forgery
 Liturgy of church, I. 323. II. 380 to 396
 Loans, see Forgery
 Locks, mischief to, II. 1035
 Lodgings, larceny in, II. 931
 Lords, see Parliament. Privilege
 Lord's act, II. 295
 Lord keeper, II. 38
 Lords commissioners, II. 38
 Lotteries, I. 201. II. 802 to 820
 Lunatics, custody of their persons, I. 190-1. 286. II. 1103. *Ad.* 11. 144
 — marriages of, I. 406. *Ad.* 31
 — committees of their estates, II. 332-3
 — disabilities supplied, II. 348, &c.
 Lying in wait, II. 908-9
- M**
- Madder roots, larceny, II. 949
 Mad-houses, I. 190. 286
 Mail, robbery of, II. 925 to 930
 Maiming or mayhem, II. 908
 Maintenance of bastards, I. 414-5-6. *Ad.* 32. 88.
 — of children, I. 413-4
 — of suits, II. 600-1-2-3-4. *Ad.* 153
 Malicious or fraudulent mischief, II. 619 to 644. 1007 to 1042
Mandamus, II. 179 to 182. *Ad.* 68
 Manor courts, II. 69 to 72. *Ad.* 62
 Manslaughter, II. 902
 Manufacturers, seducing them, II. 732 to 737
 Manufactures, mischief to, II. 718. 723. 1020 to 1029
 Marine forces, I. 384-5
 — felonies, II. 465 to 469. 1106-7-8
 Ad. 130 to 134
 Mariners wandering, II. 753-4
 Market juries, II. 699
 — clerk of, II. 1124-5-6
 Marque and reprisal, I. 157
 Marriage, of royal family, I. 152 3
 — act, I. 403-7, &c.
 — when good, I. 402 to 412
 — clandestine, II. 749. *Ad.* 118
 — felonious, II. 910 to 916
 Martyrdom of king Charles, II. 457
 Master

- Master and servant, I. 386 to 393. *Ad.* 28
 — and apprentice, I. 393 to 401
 — of the rolls, I. 159. II. 366-7-9
 — in chancery, II. 368
 Mayhem, II. 908 9
 Maynooth college, II. 429 to 433
 Mears and fences, I. 478 to 485
 Measures, I. 160-1-2. II. 696 to 700
Medietate jury de, II. 257
 Mediterranean pass, II. 1093
 Members of parliament assaulting, II. 659
 Mesne, writ of, *Ad.* 66-7
 Michaelmas term, II. 185
 Military state, I. 360 to 385
 Militia, I. 361 to 370, *Ad.* 22 to 27
 Mills demolishing, II. 636. &c. 1020
 Mines, king's right to, I. 189
 — larceny from, II. 953
 — destroying works of, II. 1029, &c.
 Ministers money, I. 353-4. 439
 Minors. See Infants
 Misadventure, homicide, *Ad.* 119
 Miscarriage, producing, II. 903
 Mischief, malicious or fraudulent, II.
 619 to 644. 1007 to 1042
 — to churches, &c. II. 621
 — to cattle, &c. II. 624. 1019
 — to trees, II. 624. 931 to 948
 — to mills, &c. II. 636 to 644. 1020
 — to manufactures, II. 718. 723. 1021
 to 1029
 — to fences, II. 1007
 — to hop-binds, II. 1008
 — with respect to corn, &c. II. 1009
 to 1019
 — coals and collieries, II. 1029, &c.
 — to ships, II. 1032
 — to banks of rivers, II. 1034-8
 — to canals, II. 1035-6-7
 — to turnpikes, II. 1039, &c.
 — to highways and bridges, II. 1041
 Misprisions amended, II. 280 to 290
 — of treason, II. 544. *Ad.* 94
 — of felony, II. 545
 — affecting king and government,
 II. 544 to 580
 Monasteries, exempt from tithes, I. 436
 — burying in, II. 439
 — disturbing possessors, II. 534-5
 Money. See Coin. False pretences
 Monopolies, II. 702-3-4
 Mortgages, remedy at law, I. 469. 470
 — satisfaction registered, I. 548-9
 — remedy for in equity, II. 338, &c.
 — to aliens, *Ad.* 41
 Mortmain alienation, I. 507 to 511
 Mortuaries abolished, I. 593-4
 Murder, II. 902 to 907
 Mute standing, II. 1196-7
 Mutiny act, I. 377 to 385. *Ad.* 27
 — beyond sea, II. 521
 Mutual debts, II. 222
- N
- Natural-born subjects, I. 304 5
 Naturalization, I. 306 to 310
 Nature, crime against, II. 918
 Naval stores, embezzling, II. 514, &c.
 Navigation-acts, I. 380 to 384
 Navigations destroying, II. 1034 5
 Navy regulation, II. 384-5
 Navy bills, &c. forgery, II. 1087-8
 Negative certificate, I. 550
 News, false spreading, II. 660
 Newspapers, see Libels,
 Next of kin, I. 656-7
Nisi prius, court of, II. 43 to 50. 254-5
 — trial at, II. 231 to 264
 Non-claim in fines, I. 571-2. *Ad.* 46
 Nonconformity, II. 376 to 396
Non obstante, I. 11
 Nonsuit, II. 256. *Ad.* 78
 Notary public, II. 54, &c.
 Notes, promissory, I. 608 to 614
 Notice to quit, I. 467-8
 Nuncupative wills, I. 660-1
 Nuisance, assize of, II. 152
 — common, II. 756 to 767. *Ad.* 117
 Nurses infecting children, *Ad.* 116.
- O
- Oaths of allegiance, &c. I. 289. 290
 — refusal to take them, II. 548, &c.
 — *ex officio*, II. 1126
 Occupancy, I. 506
Odio et atia, writ, II. 95
 Offences against God and religion, II.
 372 to 461
 — law of nations, II. 461 to 470
 — public justice, II. 580 to 613
 — public peace, II. 614 to 671
 — public trade, II. 671 to 737
 — public health, police and eco-
 nomy, II. 737 to 900
 — against the persons of indivi-
 duals, II. 900 to 919
 — the habitations, &c. II. 919 to 922
 — against private property, II.
 922 to 1101

- Offences, means of preventing, II. 1101 to 1105
 Offices, qualification oaths, I. 289 to 304
 — in corporations, I. 422 to 430
 — corrupt appointment to, I. 441 *Ad.* 36
 Officers, actions against, II. 144 to 150
 Orchards robbing, II. 931
 Orders holy, I. 322-3
 Ordnance, stores embezzling, II. 514
 — license for keeping, II. 659
 Original writ, II. 182 to 188
 Ouster of the freehold, II. 122 to 134
 — of chattels real, II. 134 to 144
 Outlawry in actions, II. 193 to 196
 — of grandjurors, II. 1199
 — avoided, *Ad.* 72
 — plea of, *Ad.* 77
 Overholding tenant, I. 467-8. *Ad.* 41
 Overseers of the poor, I. 277 to 283
 Owling, II. 671
Oyer and terminer, II. 1105. 8, &c. *Ad.* 134
- P
- Palace, assaults in, II. 577, &c.
 Pales, mischief to, II. 934-5
 Panel, see Jury. Treason.
 Papists. See Catholics Roman.
 Pardon, II. 1240 to 1250. *Ad.*
 Parent and child, I. 413 to 417
 Parish clerks, I. 355
 Parliament, to be held frequently, I. 12
 — king a constituent part, I. 13. II. 547
 — house of peers, how constituted, I. 13, &c.
 — house of commons, I. 18 to 139
 — qualification for electors, I. 21 to 53. *Ad.* 3-4
 — qualification for elected, I. 53 to 66
 — mode of proceeding at elections, I. 66 to 101
 — general provisions of election acts, I. 101-2-3
 — proceeding upon controverted elections, I. 103 to 139
 — oaths taken by sitting members, I. 139 to 143
 — privileges of parliament, I. 143-4 616, &c. II. 207 to 212. 356-7
 — method of making laws, I. 144
- Parliament, adjournment, prorogation, dissolution of, I. 145-6-7
 — duration of, I. 147
 — appeal to, II. 42
 Parol conveyances, I. 518
 — promises, II. 114
 — demur, II. 216-7
 Parson, I. 319. 322, &c.
 Partition, I. 475-6. 485-6-7
 Partnership anonymous, I. 556 to 563
 Partridges, see Game.
 Pass ports violation of, II. 461-2-3
 Patents, English, I. 187. *Ad.* 151
 — how passed, I. 564-5-6
 Pauper causes, II. 271-5
 Payment in cash suspended, I. 614
 — pleaded, II. 224
 Peace, process of, II. 1101
 — clerk of, II. 1120
 Peers, house of, I. 13 to 18. II. 42
 — privileges of, I. 144. 356 to 359
 — trial of, *Ad.* 145
 Penal actions, II. 115 to 118
 Penitentiary houses, II. 1234 to 1239. *Ad.* 149
 Pensioners, parliament, I. 54 to 60
 Perjury, II. 606 to 610
 Perpetual curate, I. 350-1
 Perpetuating testimony, II. 341. 355
 Perpetuities avoided, I. 473 4
 Personal rights, I. 1 to 12
 — injuries to, II. 95 to 106. 107 to 121
 — offences against, II. 900 to 1100
 Personating others, II. 581. 1072 to 1087
 Petitioning, right of asserted, I. 11
 — restrained, II. 654-5
 Petit treason, II. 907
Picpoudre court, II. 35
 Piracy, II. 465 to 469. 1106. *Ad.* 130
 Placemen, parliament, I. 54 to 62
 Plague, spreading, II. 737 to 747
 Plaint, county court, II. 35
 Plants, larceny, II. 949. 950-1
 Plays, profane, II. 439
 — unlawful, II. 792 to 801
 Pleading in actions, II. 215 to 228
 Plough-bote, I. 440-1-9
 Ploughing by the tail, II. 763
 Pluralities, I. 347
 Poisoning, II. 902-3
 Policies of insurance, I. 600 1-2
 Polygamy, II. 751
 Poor, I. 277 to 286. 394 to 401. *Ad.* 18. Pope,

Pope, see Catholics
 Popular actions, II. 115 to 118
 Ports appointed by king, I. 160
 Port corn rents, I. 176
Posse comitatus, II. 617
 Possessory actions, II. 122 to 131. 134 to 144
 Post-fines, I. 188. II. 1093
 Posthumous children, I. 471
 Post-roads, I. 271-2
 Pounds, II. 3. 5
 Poundage, executions, II. 313. 319. *Ad.* 86
 Poyning's law, see Preface
Præmunire, II. 524 to 544
 Precedence of peers, &c. I. 356, &c.
 Prefines, II. 1093
 Prerogative, king's, I. 157 to 165. II. 484 to 524
 Pretence of petitioning, II. 654
 — false, procuring money by, II. 1003
 Pretended titles, selling, &c. II. 604
 Preventing offences, means of, II. 1101, &c.
 Priests, ordination of, I. 322
 — marriage of, I. 411-2
 — privileges of, II. 207
 — incontinency punished, *Ad.* 136
 — see Catholics
 Principal and accessory, II. 1196
 Printers' trade regulated, II. 662, &c. *Ad.* 106
 Prisage, I. 193-4. *Ad.* 12
 Prison, breaking, II. 584 5-6
 — see Gaol
 Prisoners, declaring against, II. 96, &c. *Ad.* 63
 — removed by *habeas corpus*, II. 96 to 106
 — discharged from execution, II. 291-2
 — insolvents II. 295 to 308. *Ad.* 82 to 86
 — see Escape. Fees, &c.
 Private acts, I. 145
 Privately stealing, see Larceny
 Privilege, see Ambassadors, Clergy, Parliament.
 Privileged places, II. 582
 Privy council, I. 153-4. II. 508
 — seal or signet, II. 474
 Probate of will, I. 657-8
 Proceedings in nature of appeals, II. 276 to 291
 — in courts of equity, II. 332 to 371
 Process civil, II. 189 to 214
 — criminal, II. 1137 to 1166. 1190 to 1195

Prochein amy, *Ad.* 76-7
 Proclamation, see Fine, Riot, &c.
 Proctor, *Ad.* 57-8
 Profaneness, II. 439 to 444
Profert in curia, I. 540
 Prohibition, writ of, II. 92, &c.
 Promises, action upon, II. 114
 Promissory note, I. 608 to 614
 Prophecies, false, II. 661
 Prosecution, modes of, II. 1166 to 1190
 — expenses of, II. 1209 to 1212
 Protection, writ of, II. 213-4
 Protest of bills, &c. I. 606-7-8 9
 Protestant succession, I. 150-1. II. 483
 — dissenters, see Dissenters.
 Provisions, unwholesome, II. 747. *Ad.* 153
 Provisors, statutes against, II. 524 to 533
 Public money, larceny, II. 924. *Ad.* 120
 Public, see Offences
Pur autre vie, estates, I. 506
 Purgation canonical, II. 1216

Q

Quakers, their disabilities, I. 297
 — tithes recovered, II. 81
 — affirmation, II. 260
 — their answers in equity, II. 357-8
 Quarantine, II. 737 to 747
Quare impedit, II. 160-1 2-3. 343-4 5
 Quarrelling in church, &c. II. 659
 Quartering of soldiers, I. 379. II. 471. *Ad.* 27
 Quays, I. 160 II. 992-3
 Queen, Anne's bounty, I. 168. 9
 — her regal power, I. 152
 — violating her, II. 471
Qui tam actions, II. 115 to 118
Quia emptores, statute, I. 513-4
 Quit rent, I. 178 to 187
Quo warranto, writ of, II. 174-5 6
 — information, II. 176-7
Quod ei deforceat, II. 131
Quod permittat, II. 163
Quorum, justices of, I. 247

R

Rape, crime of, II. 916-7
 — appeal of, II. 1188
 Ravishment of ward, II. 106
 Reasonable part, I. 654-5
 Rebellion, anniversary, II. 453
 Receipt of stranger, *Ad.* 64

- Receiving stolen goods, II. 587 to 598
 Recognizances forfeited, I. 188. *Ad.* 146 7
 ——— inrolled, I. 540 to 544
 ——— for the peace, &c. II. 1101. *Ad.* 129
 Record, alienation by, I. 564 to 577
 ——— trial by, II. 230
 ——— embezzling or falsifying, II. 580-1
 ——— exemplification of, II. 230
 Recorders of cities, II. 1118
 Recovery common, I 568. 573 to 577. 580
 Recusancy, crime of, II. 396 to 426
 ——— constructive, II. 548 to 577
 Registry of ships, I. 383-4. *Ad.* 28
 ——— of marriages, I. 409. II. 749
 ——— of deeds, &c. I. 544 to 552
 ——— of bankers' deeds, I. 552 to 556
 ——— of anonymous partnerships, I. 556 to 563
 ——— of tradesmen's deeds, I. 563
 Regrators, II. 702
 Release, pleading, evidence, I. 540
 Relief, tenure, I. 445
 Religion, offences against, II. 372 to 461
 Renewal, leases, I. 535. II. 342-3-8-9 350
 Rent apportioned, I. 458-9
 ——— limitation of, restrained, I. 473
 ——— subtraction of, II. 155 to 159
 ——— see Distress, Ejectment, Replevin.
 Replevin, action of, II. 107 to 113
 Representative bodies, II. 644-654. *Ad.* 105
 Reprieve and pardon, II. 1244 to 1250
 Rescue of prisoners, II. 584-5-6
 ——— and see particular heads
 Residence, see Clergy. Parliament
 Restitution, stolen goods, II. 1213
 Restoration, anniversary, II. 457
 Return days, II. 182 to 186
 Revenue, king's, I. 165 to 209
 ——— officers, I. 50-1-2. II. 148 to 150. 672 to 695
 ——— jurisdiction, II. 1129
 Reviling ordinances of church, II. 374, &c.
 Reward for apprehending, &c. offenders, II. 1155 to 1161. *Ad.* 140. and see particular heads
 Right, writ of, II. 133. *Ad.* 77
 Riot, I. 79, II. 614 to 644
 Rivers, mischief to, II. 1035-6-7-8
 ——— thefts on, II. 992-3
 Road acts, I. 257 to 272. *Ad.* 15 to 18
 Robbery, see Larceny.
 Rogues, vagabonds, II. 768 to 785
 Rome, see Catholics. *Præmunire*
 Roots, larceny, II. 949 to 951
 Royal assent, I. 144
 ——— family, marriages, I. 152-3
 ——— fish, I. 188
 Rules, new, I. 423-4
- S
- Sabbath breaking, II. 214. 450 to 457
 Sacramental test, I. 293-4, II. 554
 Sacrament reviling, II. 374
 Safe conduct, violating, II. 461, &c.
 Salvage, II. 962 to 977. *Ad.* 122
 Sanctuary, II. 1198
 Schoolmasters nonconforming, II. 384. 426
 ——— debauching child, II. 917
Scire facias, II. 289. 313-4-5
 Scripture, denying truth of, II. 372
 Sea-banks, mischief, II. 1034
 Seal, great of Ireland, I. 566
 Seals counterfeiting, II. 474
 Seamen, I. 380 to 385. II. 223-4. 1082, &c.
 Seceders, I. 297. II. 262-3
 Security for good behaviour, &c. II. 1101
 Seducing, from allegiance, II. 481. 521
 ——— soldiers, sailors, II. 521. 546
 ——— artists, II. 732 to 737
 Serjeant at law, II. 46
 Servant, master and, I. 386 to 412
 ——— assaulting master, II. 918
 ——— burning houses, II. 120. 920
 ——— embezzling, II. 922, &c. *Ad.* 120
 Serving foreign states, II. 509
 Sessions of the peace, II. 1112. 1117-8-9
 ——— and see particular heads
 Set off, plea of, II. 222
 Settlement of crown, I. 150
 ——— of Ireland, I. 180
 Sextons, I. 355
 Sheep, larceny, II. 978-9
 Sheriffs, I. 209 to 225
 Ships registered, I. 383. *Ad.* 28
 ——— in distress plundering, II. 958 to 977
 ——— stealing from, II. 992
 ——— destroying, II. 1032, &c.
 Shooting at another, II. 909
 Shops, stealing from, II. 997-8
 Shop-books evidence, II. 259
 Sign manual, counterfeiting, II. 474
 Simony, offence of, II. 445

Sinking

- Sinking fund, I. 204
 Six clerks, chancery, II. 269
 Slandering king's title, II. 472
 Slave trade, *Ad.* 113
 Small debts, II. 60 to 72
 Smuggling, II. 672 to 695
 Socage tenure, I. 445
 Societies unlawful, II. 644 to 654
 Sodomy, II. 918
 Soldiers wandering, II. 753
 Solicitors, II. 14 to 33
 Sorcery, crime of, II. 444
 South sea bubbles, II. 820
 Special administration, I. 659
 — bail, II. 196 to 207. *Ad.* 73
 — jury, II. 251 to 254
 — occupant, I. 506
 Squibs, II. 765
 Stabbing, II. 902-9
 Stamps, see Forgery.
 Standard of weights, &c. I. 161-2-3
 — of coin, II. 505-6-7
 Star-chamber, I. 4
 Statutes, see Acts. Evidence.
 Statute merchant, I. 540-1. II. 310-1
 — staple, I. 541. II. 311-2
 — recognizance in nature of, I. 541-2-3. II. 312
 Stile altered, I. 464 to 467
 Stolen goods, receiving, II. 587 to 593
 — restitution of, II. 1213
 Stores embezzling, II. 514
 Strafford's survey, I. 177
 Striking in king's palace, II. 577, &c.
 Subordinate magistrates, I. 269 to 288
 Subornation of perjury, II. 607-9
Subpoena upon bills, II. 351
 Subtraction of tithe, II. 73 to 84
 — of rent, II. 155 to 159
 Suit, of court, *Ad.* 59
 — in others' names, II. 598
 Suitors' money, II. 360 to 366
 Summary convictions, II. 1129 to 1136
 Summons in real actions, II. 189
 Sunday kept holy, II. 214. 450 to 457. *Ad.* 87
 Superstitious, uses, I. 509
 — things importing, II. 543
 Supremacy, oath of, I. 290 to 297. II. 548, &c.
 Surcharge of pasture, II. 159
 Surveyor of highways, I. 257 to 272
 Swans, II. 846
 Swearing profane, II. 440
 Swindling, II. 1003
 T
Tales, jury, II. 249 to 251
 Talliages, I. 9-10
 Taxes, I. 191 to 200
 Teachers nonconforming, II. 426, &c.
 Temporalities of bishops, I. 165
 Tenant overholding, I. 467-8
 — to the *præcipe*, I. 575-6
 Tender of amends, II. 150
 — of bank notes, II. 197. 200. *Ad.* 92
 Tenths of benefices, I. 166 to 173
 Tenures English, I. 442-3
 Terms, returns, &c. II. 182 to 186
 Test-act, I. 292-3-6
 Theft, see Larceny.
 Theft-bote, II. 598
 Threatening letters, II. 623-4 8
 Throwing squibs, &c. II. 765
 Tithes, I. 434 to 438. 531. 573
 Title by escheat, I. 488 to 505
 — by occupancy, I. 506. 584 to 590
 — by forfeiture, I. 507 to 513. 590
 — by alienation, I. 513 to 584
 — by custom, I. 593-4
 — by judgment, &c. I. 594-5-6
 — by gift, grant, contract, I. 596, &c.
 — bankruptcy, I. 614 to 664
 Titles confirmed, I. 187. 505. *Ad.* 151
 — pretended selling of, II. 604
 Toll, exaction of, II. 613. *Ad.* 96
 Tourn of sheriff, II. 1122-3-4. *Ad.* 135
 Trade, partnerships in, I. 556 to 563
 — offences against, II. 671 to 737
 Traders' settlements, I. 563
 — heirs, devisees, II. 337
 Transportation, II. 1220 to 1239. 1247 to 1250
 Transubstantiation, declaration against, I. 292
 Treason, high, II. 470 to 483. 542. 1199 to 1206
 — misprision of, II. 544 5
 — petit, II. 907
 Trees, see Larceny. Mischief. *I* 447
 Trespass, action of, II. 144 to 152
 Trial, by record, II. 230
 — by certificate, II. 231
 — by jury, II. 231 to 264. 1199 to 1214
 — where to be, II. 1167 to 1184
 Trinity-term, II. 182 3
 Trusts, I. 537-8. 577. II. 345-6-7. 354
 Tumults, see Riot. Mischief.
 Tumultuous petitioning, II. 655
 Turnips,

Turnips, larceny, II. 949
 Turnpikes, I. 272, &c. II. 1039, &c.
 Twentieth part, I. 170

U

Uniformity of worship, I. 324-5. II. 376 to 385
 Union, act of, see 39 & 40 Geo. 3. c. 67.
 Eng. in Chronological Table.
 United brethren, II. 261
 — Englishmen, &c. II. 644 to 654
 Unlawful assemblies, II. 617 to 658
 Unlawful oaths, II. 522-3. *Ad.* 93
 Unnatural crime, II. 918
 Use and occupation, II. 157
 Uses, charitable, I. 510
 — and trusts, I. 536-7. 577
 Usury, I. 515-6. II. 695
 Uttering, see Coin. Forgery.

V

Vagabonds, vagrants, II. 767 to 791
Venire, see Jury. Jeofails
 Venue, II. 215. 283-4
 Verdict, II. 276 to 286
 Vestries, I. 352
 Vicars' maintenance, &c. I. 319 to 322
 View, in real actions, II. 217
 — by jurors, II. 249
 Violating queen, &c. II. 471
 Visiting corporations, I. 427
 Volunteer forces, I. 370, &c.
 Voucher, II. 218-9

W

Wager of law and battel. *Ad.* 77
 Wagering policies, I. 600-1-2

Wages of servants, &c. I. 389 to 392
 Wandering soldiers, &c. II. 753
 Ward, guardian and, I. 418-9. 445
 — ravishment of, II. 106
 Warranty, I. 518-9
 Warrant of attorney, II. 282
 — where executed, II. 1137 to 1146
 Waste, action of, II. 153-4
 Wears, nuisances, II. 756-7
 Weights and measures, I. 160, &c. II. 696, &c.
 Wharfs, larceny, II. 992-3
 Whiteboy act, II. 629
 Wills, of lands, I. 581 to 584
 — of personalty, I. 657 to 664
 Wine, adulterating, II. 748
 Witchcraft, II. 444
 Withdrawing from allegiance, II. 481
 Witnesses, II. 100. 259 to 263. 1206-7-8. *Ad.* 103. and see particular heads.
 Women, judgment against, II. 1240
 — relieved in equity, *Ad.* 86
 Wool, II. 671-763
 Words, action for, II. 223-4
 — prosecution for, *Ad.* 120
 Wrecks, I. 188. II. 958 to 977. *Ad.* 122-3
 Writs, II. 190-1-2. *Ad.* 60. 71. and see particular heads.

Y

Year and day, II. 1188-9
 Year, day, and waste, II. 1241-2
 Yelverton's act, see Preface
 Yeomanry, I. 370 to 373

F I N I S.

Fraudulent devises, I. 533
 Freeholders, elections by, I. 21 to 42.
 80 to 96. *Ad.* 3-4
 — jurors, II. 234. 1204
 Freemasons, II. 646
 Freeman, elections by, I. 43 to 49
 — *mandamus* to admit, II. 179 to 182,
 Ad. 68
 Fresh suit, II. 1146
 Fruit trees, II. 931-7. 1007
 Funds, sinking, I. 204
 — forgery, II. 1068 to 1077. *Ad.* 125-6
 Furniture, larceny, II. 931

G

Game, certificates, I. 199
 —, qualification for killing, II. 821
 to 826. 857 to 862
 — keeper appointed, II. 826. 858
 — killing on Sunday or at night, II.
 866
 Game-laws, general provisions of, II.
 827. 856. 859 to 862 7
 — respecting deer, II. 829 to 837.
 862-3-4
 — hares, II. 837 to 842. 864-5
 — conies, II. 842-3-4. 864-5
 — hawks, II. 844-5-6-9. 856
 — swans, II. 846-7
 — partridges, II. 847 to 850. 865-6
 — pheasants, II. 847 to 850. 865-6
 — doves or pigeons, II. 850-1. 865.
 — water fowl, II. 851-2. 865
 — grouse, black game and red game,
 II. 852-3-4. 865-6
 — herons, II. 855
 — eggs of wild fowl, II. 855. 865-6
 — animals destructive of, II. 856. 868
 Gaming unlawful, II. 792 to 820
 — cheating at, II. 801
 Gaols regulated, &c. I. 225 to 235.
 Ad. 14 & 15
 — breaking, II. 584-5-6
 — delivery, II. 1108 to 1112. *Ad.* 134
 Gaolers. See Approvers
 Gardens, larceny, II. 931
 General avowry, II. 111-2
 Gifts of goods, fraudulent, I. 596
 Glebes, glebe-houses, I. 326 to 346
 Gold. See Coin
 Good behaviour, security for, II. 1101
 Grain obstructing passage of, II. 637 to
 643. 1015-7-8
 Grand jurors, who to be, II. 1166. *Ad.* 141
 — serjeanty, I. 444

Great distress, II. 189. *Ad.* 70
 Great seal, counterfeiting, II. 474
 Grouse. see Game.
 Guardian testamentary, I. 418 to 420
 — in socage, I. 445
 Gunpowder plot, II. 457
 Gypsies, II. 755-6

H

Habeas corpus Act, I. 9. II. 102. 1203
 — *ad respondendum*, II. 96-7-8
 — *cum causa*, II. 98
 — *ad testificandum*, II. 100
 — *ad subjiciendum*, II. 101 to 106
 Habere, fees thereon, II. 316-7-8
 Hand, burning in, II. 1220. 1233. *Ad.*
 148
 Hard labour, punishing by, II. 1234,
 &c. *Ad.* 149
 Hares, Hawks, Herons, Heathfowl.
 see Game
 Head of the church, I. 164
 Heath, burning, II. 836. 863
 Hedges, mischief to, II. 934-5
 Heiress, abduction of, II. 912-3-4
 Heresy, crime of, II. 373-4
 Heriot, distraining for, II. 11
 Highways, repairing, I. 257 to 275
 Ad. 15 to 18
 — robbery in or near, II. 1000-1-2
 Holding over, I. 467-8. *Ad.* 41
 Holidays, II. 448
 Homicide, II. 901. to 908. *Ad.* 119.
 Hop-binds destroying, II. 1008
 Horses, sale of, I. 596-7-8-9
 — loss of, II. 121
 — working by tail, II. 763
 — dealing in, II. 785
 — larceny, II. 977
 Horse-races, II. 818
 Hospitals, I. 287-8 420-1. *Ad.* 19
 House-bote, I. 440-1-9
 Houses, burning, II. 120. 919. 929
 — breaking, II. 922
 — robbery of or in, II. 995 to
 1002
 — of poor, I. 281 to 286
 — of correction, II. 1132-4. 1234.
 Ad. 149
 Hue and cry, II. 1146 to 1155
 Hundredors, jury, II. 235-6
 Hundred, action against, II. 1146 to
 1155
 Hunting. see Game
 Husband and wife, I. 402 to 412

Idem.

I

Identitate nominis, *Ad.* 71
 Idiot, custody of, I. 190
 Idleness restrained, II. 767 to 791
 Imbezzling, see Armour. Embezzling.
 Impeachment, parliamentary, II. 1202
 Importing crosses, &c. II. 543
 — counterfeit money, see Coin
 Imprisonment beyond the seas, I. 7
 — for small debts, II. 62
 Incorporated societies, I. 280 to 283
 Incurable rogues, II. 771-2
Indicavit writ of, II. 94
 Indictment prosecuting by, II. 1166 to 1185
 Infants, not to vote at elections, I. 49
 — not to sit in parliament, I. 53
 — marriage of, I. 403 to 406
 — guardianship of, I. 418-9
 — suit against, II. 216-7
 — disabilities supplied in equity, II. 348 to 351
 — suit by next friend, *Ad.* 76
 — abduction of, II. 910 to 916
 — rape, &c. of, II. 916.7
 Inferior courts, II. 60 to 72
 Infirmaries of counties, I. 287
 Information, on penal statutes, II. 115-6-7-8
 — of intrusion, II. 174
 — *quo warranto*, II. 176-7-8
 — compounding, II. 605
 — how exhibited, II. 1186
 — evidence, *Ad.* 103
 Injunction bills, II. 342-3
 Inland taxes, I. 199
 Innholder liable for loss of horses, II. 121
 Inns of court, II. 33-4
 Inquest of office, II. 164 to 170
 Inrolment of bargain and sale, I. 539.540
 — of recognizances, I. 540 to 544
 — of fines and recoveries, I. 568-9. 570-5
 — of deeds of annuity, I. 602-3 4
 Insolvents discharged, II. 295 to 308. *Ad.* 82
 Instance court of admiralty, II. 53
 Insurance policies, I. 600-1-2
 Insuring in lotteries, II. 811-4
 Interest of money, I. 605-6. *Ad.* 48
 Intestate, administration to, I. 655-6-7
 Intrusion, information of, II. 174
 Inventory by executors, &c. I. 657-8
 Issues on jurors, II. 237-8

C

J

Jeofails, cured, II. 280 to 290. 330
 Jesuits relieving, &c. II. 417-8.433, &c. 481
 Joint-tenancy, I. 475 to 487, *Ad.* 42
 Jointure, bar of dower, I. 462-3
 Judges, their commissions, I. 158-9
 — killing them, II. 479
 Judgment, prior to deed, I. 551
 — assignment of, I. 594-5-6
 — as in case of a nonsuit, II. 256
 — its incidents, II. 264 to 275, *Ad.* 79
 — amended, cured, II. 280 to 286
 — in criminal cases, II. 1240 to 1244
Jure patronatus, II. 163
Juris utrum, II. 163
 Jury, trial by, II. 231 to 264. 1199 to 1214
 Justices of peace, their appointment, qualification, &c. I. 240 to 251
 — their jurisdiction, I. 590-1-2. II. 1101-2-3. 1112 to 1119. 1129 to 1136 *et sparsim*
 Justices of assize, &c. II. 43 to 51. *Ad.* 61
 — of *oyer and terminer*, &c. II. 1108 to 1112
 Justifiable homicide, II. 901
 Justifying bail, II. 205

K

Keeper, lord, II. 38
 Kidnapping, II. 919
 King, his title, I. 148 to 151. *Ad.* 11.
 — his royal family, I. 152-3
 — his councils, I. 153-4
 — his duties, I. 154-5-6
 — his prerogative, I. 157 to 165
 — his revenue, I. 165 to 209
 — demise of, I. 146-7. 153. 359. II. 1110
 — limitation against, II. 170 to 174.
 — his debts recovered, II. 320 to 331
 — treason against, II. 470 to 483
 — felonies against, II. 484 to 524
 — misprisions, &c. against, II. 544 to 580
 King's inns, II. 33-4. *Ad.* 2.

L

Labour, hard, II. 1234. &c. *Ad.* 149
 Labourers, I. 386. II. 785

Lapse,

- Lapse, I. 511 *et sparsim*
 Larceny, II. 922 to 1002
 — by servants, II. 922. *Ad.* 120
 — by clerks, II. 924. *Ad.* 120-1
 — respecting post office, II. 925 to 930
 — respecting trade, II. 930-1
 — respecting lodgings, II. 931
 — of trees, &c. adhering to freehold, II. 931 to 948
 — of roots, II. 949 to 951
 — of lead, &c. from houses, II. 951
 — from mines, II. 953
 — of records, II. 581. 954
 — of choses in action, II. 954 to 958
 — respecting wrecks, II. 958 to 977
 — of horses, II. 977
 — of sheep, cattle, &c. II. 978 to 982
 — of dogs, II. 982-3-4
 — respecting woollen manufacture, II. 935-8
 — linen, cotton, &c. manufacture, II. 987
 — from ships, &c. II. 992
 — from wharfs, &c. II. 993
 — from churches, &c. II. 995
 — from dwelling house, II. 995-6-7
 — from shops, &c. II. 997-8-9
 — from person, II. 999 to 1002
 Lazarets, escaping from, II. 740 to 747
 Lead, stealing, &c. II. 590 to 595. 951-2-3
 Leap year, I. 464 to 467
 Leases, what valid, I. 346. 520 to 536
 — assigned or surrendered, I. 518.
 — renewal of, I. 535. II. 342-3. 348 to 351
 — and release, I. 540
 Lecturers licensed, II. 382-3
 Leet court. *Ad.* 135-6
 Letters of marque, I. 157
 — missive, I. 316
 — threatening, II. 623-8 9
 Levitical degrees, I. 402 3
 Levying war, II. 470-1-2
 Lezing of corn, II. 786
 Libel, II. 661 to 671. *Ad.* 106
 Liberties and rights, I. 1 to 12. *Ad.* 2-3
 Life estates, I. 447 to 463
 Limitation, for penal actions, II. 117
 — for making entries, II. 122
 — for writs of assize, II. 130
 — for writs of *formedon*, II. 131
 — for writs of right, II. 133
 Limitation, for actions against officers, II. 148-9
 — in actions personal, II. 222-3-4
 — in writs of error, II. 289
 See also particular heads
 Linen, see Mischief, Larceny, Forgery
 Liturgy of church, I. 323. II. 380 to 396
 Loans, see Forgery
 Locks, mischief to, II. 1035
 Lodgings, larceny in, II. 931
 Lords, see Parliament. Privilege
 Lord's act, II. 295
 Lord keeper, II. 38
 Lords commissioners, II. 38
 Lotteries, I. 201. II. 802 to 820
 Lunatics, custody of their persons, I. 190-1. 286. II. 1103. *Ad.* 11. 144
 — marriages of, I. 406. *Ad.* 31
 — committees of their estates, II. 332-3
 — disabilities supplied, II. 348, &c.
 Lying in wait, II. 908-9
- M**
- Madder roots, larceny, II. 949
 Mad-houses, I. 190. 286
 Mail, robbery of, II. 925 to 930
 Maiming or mayhem, II. 908
 Maintenance of bastards, I. 414-5-6. *Ad.* 32. 88.
 — of children, I. 413-4
 — of suits, II. 600-1-2-3-4. *Ad.* 153
 Malicious or fraudulent mischief, II. 619 to 644. 1007 to 1042
Mandamus, II. 179 to 182. *Ad.* 68
 Manor courts, II. 69 to 72. *Ad.* 62
 Manslaughter, II. 902
 Manufacturers, seducing them, II. 732 to 737
 Manufactures, mischief to, II. 718. 723. 1020 to 1029
 Marine forces, I. 384-5
 — felonies, II. 465 to 469. 1106-7-8
Ad. 130 to 134
 Mariners wandering, II. 753-4
 Market juries, II. 699
 — clerk of, II. 1124-5-6
 Marque and reprisal, I. 157
 Marriage, of royal family, I. 152 3
 — act, I. 403-7, &c.
 — when good, I. 402 to 412
 — clandestine, II. 749. *Ad.* 118
 — felonious, II. 910 to 916
 Martyrdom of king Charles, II. 457
 Master

- Master and servant, I. 386 to 393. *Ad.* 28
 — and apprentice, I. 393 to 401
 — of the rolls, I. 159. II. 366-7-9
 — in chancery, II. 368
 Mayhem, II. 908 9
 Maynooth college, II. 429 to 433
 Mears and fences, I. 478 to 485
 Measures, I. 160-1-2. II. 696 to 700
Medietate jury de, II. 257
 Mediterranean pass, II. 1093
 Members of parliament assaulting, II. 659
 Mesne, writ of, *Ad.* 66-7
 Michaelmas term, II. 185
 Military state, I. 360 to 385
 Militia, I. 361 to 370, *Ad.* 22 to 27
 Mills demolishing, II. 636. &c. 1020
 Mines, king's right to, I. 189
 — larceny from, II. 953
 — destroying works of, II. 1029, &c.
 Ministers money, I. 353-4. 439
 Minors. See Infants
 Misadventure, homicide, *Ad.* 119
 Miscarriage, producing, II. 903
 Mischief, malicious or fraudulent, II.
 619 to 644. 1007 to 1042
 — to churches, &c. II. 621
 — to cattle, &c. II. 624. 1019
 — to trees, II. 624. 931 to 943
 — to mills, &c. II. 636 to 644. 1020
 — to manufactures, II. 718. 723. 1021
 to 1029
 — to fences, II. 1007
 — to hop-binds, II. 1008
 — with respect to corn, &c. II. 1009
 to 1019
 — coals and collieries, II. 1029, &c.
 — to ships, II. 1032
 — to banks of rivers, II. 1034-8
 — to canals, II. 1035-6-7
 — to turnpikes, II. 1039, &c.
 — to highways and bridges, II. 1041
 Misprisions amended, II. 280 to 290
 — of treason, II. 544. *Ad.* 94
 — of felony, II. 545
 — affecting king and government,
 II. 544 to 580
 Monasteries, exempt from tithes, I. 436
 — burying in, II. 439
 — disturbing possessors, II. 534-5
 Money. See Coin. False pretences
 Monopolies, II. 702-3-4
 Mortgages, remedy at law, I. 469. 470
 — satisfaction registered, I. 548-9
 — remedy for in equity, II. 338, &c.
 — to aliens, *Ad.* 41
 Mortmain alienation, I. 507 to 511
 Mortuaries abolished, I. 593-4
 Murder, II. 902 to 907
 Mute standing, II. 1196-7
 Mutiny act, I. 377 to 385. *Ad.* 27
 — beyond sea, II. 521
 Mutual debts, II. 222
- N
- Natural-born subjects, I. 304 5
 Naturalization, I. 306 to 310
 Nature, crime against, II. 918
 Naval stores, embezzling, II. 514, &c.
 Navigation-acts, I. 380 to 384
 Navigations destroying, II. 1034 5
 Navy regulation, II. 384-5
 Navy bills, &c. forgery, II. 1087-8
 Negative certificate, I. 550
 News, false spreading, II. 660
 Newspapers, see Libels
 Next of kin, I. 656-7
Nisi prius, court of, II. 43 to 50. 254-5
 — trial at, II. 231 to 264
 Non-claim in fines, I. 571-2. *Ad.* 46
 Nonconformity, II. 376 to 396
Non obstante, I. 11
 Nonsuit, II. 256. *Ad.* 78
 Notary public, II. 54, &c.
 Notes, promissory, I. 608 to 614
 Notice to quit, I. 467-8
 Nuncupative wills, I. 660-1
 Nuisance, assize of, II. 152
 — common, II. 756 to 767. *Ad.* 117
 Nurses infecting children, *Ad.* 116.
- O
- Oaths of allegiance, &c. I. 289. 290
 — refusal to take them, II. 548, &c.
 — *ex officio*, II. 1126
 Occupancy, I. 506
Odio et atia, writ, II. 95
 Offences against God and religion, II.
 372 to 461
 — law of nations, II. 461 to 470
 — public justice, II. 580 to 613
 — public peace, II. 614 to 671
 — public trade, II. 671 to 737
 — public health, police and eco-
 nomy, II. 737 to 900
 — against the persons of indivi-
 duals, II. 900 to 919
 — the habitations, &c. II. 919 to 922
 — against private property, II.
 922 to 1101
- Offence

- Offences, means of preventing, II. 1101 to 1105
 Offices, qualification oaths, I. 289 to 304
 — in corporations, I. 422 to 430
 — corrupt appointment to, I. 441 *Ad.* 36
 Officers, actions against, II. 144 to 150
 Orchards robbing, II. 931
 Orders holy, I. 322-3
 Ordnance, stores embezzling, II. 514
 — license for keeping, II. 659
 Original writ, II. 182 to 188
 Ouster of the freehold, II. 122 to 134
 — of chattels real, II. 134 to 144
 Outlawry in actions, II. 193 to 196
 — of grandjurors, II. 1199
 — avoided, *Ad.* 72
 — plea of, *Ad.* 77
 Overholding tenant, I. 467-8. *Ad.* 41
 Overseers of the poor, I. 277 to 283
 Owling, II. 671
Oyer and terminer, II. 1105. 8, &c. *Ad.* 134
- P
- Palace, assaults in, II. 577, &c.
 Pales, mischief to, II. 934-5
 Panel, see Jury. Treason.
 Papists. See Catholics Roman.
 Pardon, II. 1240 to 1250. *Ad.*
 Parent and child, I. 413 to 417
 Parish clerks, I. 355
 Parliament, to be held frequently, I. 12
 — king a constituent part, I. 13. II. 547
 — house of peers, how constituted, I. 13, &c.
 — house of commons, I. 18 to 139
 — qualification for electors, I. 21 to 53. *Ad.* 3-4
 — qualification for elected, I. 53 to 66
 — mode of proceeding at elections, I. 66 to 101
 — general provisions of election acts, I. 101-2-3
 — proceeding upon controverted elections, I. 103 to 139
 — oaths taken by sitting members, I. 139 to 143
 — privileges of parliament, I. 143-4 616, &c. II. 207 to 212. 356-7
 — method of making laws, I. 144
- Parliament, adjournment, prorogation, dissolution of, I. 145-6-7
 — duration of, I. 147
 — appeal to, II. 42
 Parol conveyances, I. 518
 — promises, II. 114
 — demur, II. 216-7
 Parson, I. 319. 322, &c.
 Partition, I. 475-6. 485-6-7
 Partnership anonymous, I. 556 to 563
 Partridges, see Game.
 Pass ports violation of, II. 461-2-3
 Patents, English, I. 187. *Ad.* 151
 — how passed, I. 564-5-6
 Pauper causes, II. 271-5
 Payment in cash suspended, I. 614
 — pleaded, II. 224
 Peace, process of, II. 1101
 — clerk of, II. 1120
 Peers, house of, I. 13 to 18. II. 42
 — privileges of, I. 144. 356 to 359
 — trial of, *Ad.* 145
 Penal actions, II. 115 to 118
 Penitentiary houses, II. 1234 to 1239. *Ad.* 149
 Pensioners, parliament, I. 54 to 60
 Perjury, II. 606 to 610
 Perpetual curate, I. 350-1
 Perpetuating testimony, II. 341. 355
 Perpetuities avoided, I. 473 4
 Personal rights, I. 1 to 12
 — injuries to, II. 95 to 106. 107 to 121
 — offences against, II. 900 to 1100
 Personating others, II. 581. 1072 to 1087
 Petitioning, right of asserted, I. 11
 — restrained, II. 654-5
 Petit treason, II. 907
Picpoudre court, II. 35
 Piracy, II. 465 to 469. 1106. *Ad.* 130
 Placemen, parliament, I. 54 to 62
 Plague, spreading, II. 737 to 747
 Plaint, county court, II. 35
 Plants, larceny, II. 949. 950-1
 Plays, profane, II. 439
 — unlawful, II. 792 to 801
 Pleading in actions, II. 215 to 228
 Plough bote, I. 440-1-9
 Ploughing by the tail, II. 763
 Pluralities, I. 347
 Poisoning, II. 902-3
 Policies of insurance, I. 600 1-2
 Polygamy, II. 751
 Poor, I. 277 to 286. 394 to 401. *Ad.* 18. Pope,

Pope, see Catholics
 Popular actions, II. 115 to 118
 Ports appointed by king, I. 160
 Port corn rents, I. 176
Posse comitatus, II. 617
 Possessory actions, II. 122 to 131. 134 to 144
 Post-fines, I. 188. II. 1093
 Posthumous children, I. 471
 Post-roads, I. 271-2
 Pounds, II. 3. 5
 Poundage, executions, II. 313. 319. *Ad.* 86
 Poyning's law, see Preface
Premunire, II. 524 to 544
 Precedence of peers, &c. I. 356, &c.
 Prefines, II. 1093
 Prerogative, king's, I. 157 to 165. II. 484 to 524
 Pretence of petitioning, II. 654
 — false, procuring money by, II. 1003
 Pretended titles, selling, &c. II. 604
 Preventing offences, means of, II. 1101, &c.
 Priests, ordination of, I. 322
 — marriage of, I. 411-2
 — privileges of, II. 207
 — incontinency punished, *Ad.* 136
 — see Catholics
 Principal and accessory, II. 1196
 Printers' trade regulated, II. 662, &c. *Ad.* 106
 Prisage, I. 193-4. *Ad.* 12
 Prison, breaking, II. 584 5-6
 — see Gaol
 Prisoners, declaring against, II. 96, &c. *Ad.* 63
 — removed by *habeas corpus*, II. 96 to 106
 — discharged from execution, II. 291-2
 — insolvents II. 295 to 308. *Ad.* 82 to 86
 — see Escape. Fees, &c.
 Private acts, I. 145
 Privately stealing, see Larceny
 Privilege, see Ambassadors, Clergy, Parliament.
 Privileged places, II. 582
 Privy council, I. 153-4. II. 508
 — seal or signet, II. 474
 Probate of will, I. 657-8
 Proceedings in nature of appeals, II. 276 to 291
 — in courts of equity, II. 332 to 371
 Process civil, II. 189 to 214
 — criminal, II. 1137 to 1166. 1190 to 1195

Prochein amy, *Ad.* 76-7
 Proclamation, see Fine, Riot, &c.
 Proctor, *Ad.* 57-8
 Profaneness, II. 439 to 444
Profert in curia, I. 540
 Prohibition, writ of, II. 92, &c.
 Promises, action upon, II. 114
 Promissory note, I. 608 to 614
 Prophecies, false, II. 661
 Prosecution, modes of, II. 1166 to 1190
 — expenses of, II. 1209 to 1212
 Protection, writ of, II. 213-4
 Protest of bills, &c. I. 606-7-8 9
 Protestant succession, I. 150-1. II. 483
 — dissenters, see Dissenters.
 Provisions, unwholesome, II. 747. *Ad.* 153
 Provisors, statutes against, II. 524 to 533
 Public money, larceny, II. 924. *Ad.* 120
 Public, see Offences
Pur autre vie, estates, I. 506
 Purgation canonical, II. 1216

Q

Quakers, their disabilities, I. 297
 — tithes recovered, II. 81
 — affirmation, II. 260
 — their answers in equity, II. 357-8
 Quarantine, II. 737 to 747
Quare impedit, II. 160-1 2-3. 343-4 5
 Quarrelling in church, &c. II. 659
 Quartering of soldiers, I. 379. II. 471. *Ad.* 27
 Quays, I. 160 II. 992-3
 Queen, Anne's bounty, I. 168.9
 — her regal power, I. 152
 — violating her, II. 471
Qui tam actions, II. 115 to 118
Quia emptores, statute, I. 513-4
 Quit rent, I. 178 to 187
Quo warranto, writ of, II. 174-5 6
 — information, II. 176-7
Quod ei deforceat. II. 131
Quod permittat, II. 163
Quorum, justices of, I. 247

R

Rape, crime of, II. 916 7
 — appeal of, II. 1188
 Ravishment of ward, II. 106
 Reasonable part, I. 654-5
 Rebellion, anniversary, II. 453
 Receipt of stranger, *Ad.* 64

- Receiving stolen goods, II. 587 to 598
 Recognizances forfeited, I. 188. *Ad.* 146 7
 ——— inrolled, I. 540 to 544
 ——— for the peace, &c. II. 1101. *Ad.* 129
 Record, alienation by, I. 564 to 577
 ——— trial by, II. 230
 ——— embezzling or falsifying, II. 580-1
 ——— exemplification of, II. 230
 Recorders of cities, II. 1118
 Recovery common, I. 568. 573 to 577. 580
 Recusancy, crime of, II. 396 to 426
 ——— constructive, II. 548 to 577
 Registry of ships, I. 383-4. *Ad.* 28
 ——— of marriages, I. 409. II. 749
 ——— of deeds, &c. I. 544 to 552
 ——— of bankers' deeds, I. 552 to 556
 ——— of anonymous partnerships, I. 556 to 563
 ——— of tradesmen's deeds, I. 563
 Regrators, II. 702
 Release, pleading, evidence, I. 540
 Relief, tenure, I. 445
 Religion, offences against, II. 372 to 461
 Renewal, leases, I. 535. II. 342-3-8-9 350
 Rent apportioned, I. 458-9
 ——— limitation of, restrained, I. 473
 ——— subtraction of, II. 155 to 159
 ——— see Distress, Ejectment, Replevin.
 Replevin, action of, II. 107 to 113
 Representative bodies, II. 644-654. *Ad.* 105
 Reprieve and pardon, II. 1244 to 1250
 Rescue of prisoners, II. 584-5-6
 ——— and see particular heads
 Residence, see Clergy. Parliament
 Restitution, stolen goods, II. 1213
 Restoration, anniversary, II. 457
 Return days, II. 182 to 186
 Revenue, king's, I. 165 to 209
 ——— officers, I. 50-1-2. II. 148 to 150. 672 to 695
 ——— jurisdiction, II. 1129
 Reviling ordinances of church, II. 374, &c.
 Reward for apprehending, &c. offenders, II. 1155 to 1161. *Ad.* 140. and see particular heads
 Right, writ of, II. 133. *Ad.* 77
 Riot, I. 79, II. 614 to 644
 Rivers, mischief to, II. 1035-6-7-8
 ——— thefts on, II. 992-3
 Road acts, I. 257 to 272. *Ad.* 15 to 18
 Robbery, see Larceny.
 Rogues, vagabonds, II. 768 to 785
 Rome, see Catholics. *Præmunire*
 Roots, larceny, II. 949 to 951
 Royal assent, I. 144
 ——— family, marriages, I. 152-3
 ——— fish, I. 188
 Rules, new, I. 423-4
- S
- Sabbath breaking, II. 214. 450 to 457
 Sacramental test, I. 293-4, II. 554
 Sacrament reviling, II. 374
 Safe conduct, violating, II. 461, &c.
 Salvage, II. 962 to 977. *Ad.* 122
 Sanctuary, II. 1198
 Schoolmasters nonconforming, II. 384. 426
 ——— debauching child, II. 917
Scire facias, II. 289. 313-4-5
 Scripture, denying truth of, II. 372
 Sea-banks, mischief, II. 1034
 Seal, great of Ireland, I. 566
 Seals counterfeiting, II. 474
 Seamen, I. 380 to 385. II. 223-4. 1082, &c.
 Seceders, I. 297. II. 262-3
 Security for good behaviour, &c. II. 1101
 Seducing, from allegiance, II. 481. 521
 ——— soldiers, sailors, II. 521. 546
 ——— artists, II. 732 to 737
 Serjeant at law, II. 46
 Servant, master and, I. 386 to 412
 ——— assaulting master, II. 918
 ——— burning houses, II. 120. 920
 ——— embezzling, II. 922, &c. *Ad.* 120
 Serving foreign states, II. 509
 Sessions of the peace, II. 1112. 1117-8-9
 and see particular heads
 Set off, plea of, II. 222
 Settlement of crown, I. 150
 ——— of Ireland, I. 180
 Sextons, I. 355
 Sheep, larceny, II. 978-9
 Sheriffs, I. 209 to 225
 Ships registered, I. 383. *Ad.* 28
 ——— in distress plundering, II. 958 to 977
 ——— stealing from, II. 992
 ——— destroying, II. 1032, &c.
 Shooting at another, II. 909
 Shops, stealing from, II. 997-8
 Shop-books evidence, II. 259
 Sign manual, counterfeiting, II. 474
 Simony, offence of, II. 445
- Sinking

Sinking fund, I. 204
 Six clerks, chancery, II. 369
 Slandering king's title, II. 472
 Slave trade, *Ad.* 113
 Small debts, II. 60 to 72
 Smuggling, II. 672 to 695
 Socage tenure, I. 445
 Societies unlawful, II. 644 to 654
 Sodomy, II. 918
 Soldiers wandering, II. 753
 Solicitors, II. 14 to 33
 Sorcery, crime of, II. 444
 South sea bubbles, II. 820
 Special administration, I. 659
 — bail, II. 196 to 207. *Ad.* 73
 — jury, II. 251 to 254
 — occupant, I. 506
 Squibs, II. 765
 Stabbing, II. 902-9
 Stamps, see Forgery.
 Standard of weights, &c. I. 161-2-3
 — of coin, II. 505-6-7
 Star-chamber, I. 4
 Statutes, see Acts. Evidence.
 Statute merchant, I. 540-1. II. 310-1
 — staple, I. 541. II. 311-2
 — recognizance in nature of, I. 541-2-3. II. 312
 Stile altered, I. 464 to 467
 Stolen goods, receiving, II. 587 to 598
 — restitution of, II. 1213
 Stores embezzling, II. 514
 Strafford's survey, I. 177
 Striking in king's palace, II. 577, &c.
 Subordinate magistrates, I. 269 to 288
 Subornation of perjury, II. 607-9
Subpana upon bills, II. 351
 Subtraction of tithe, II. 73 to 84
 — of rent, II. 155 to 159
 Suit, of court, *Ad.* 59
 — in others' names, II. 598
 Suitors' money, II. 360 to 366
 Summary convictions, II. 1129 to 1136
 Summons in real actions, II. 189
 Sunday kept holy, II. 214. 450 to 457.
Ad. 87
 Superstitious, uses, I. 509
 — things importing, II. 543
 Supremacy, oath of, I. 290 to 297. II.
 548, &c.
 Surcharge of pasture, II. 159
 Surveyor of highways, I. 257 to 272
 Swans, II. 846
 Swearing profane, II. 440
 Swindling, II. 1003

T

Tales, jury, II. 249 to 251
 Talliages, I. 9-10
 Taxes, I. 191 to 260
 Teachers nonconforming, II. 426, &c.
 Temporalities of bishops, I. 165
 Tenant overholding, I. 467-8
 — to the *præcipe*, I. 575-6
 Tender of amends, II. 150
 — of bank notes, II. 197. 200. *Ad.* 92
 Tenths of benefices, I. 166 to 173
 Tenures English, I. 442-3
 Terms, returns, &c. II. 182 to 186
 Test-act, I. 292-3-6
 Theft, see Larceny.
 Theft-bote, II. 598
 Threatening letters, II. 623-4 8
 Throwing squibs, &c. II. 765
 Tithes, I. 434 to 438. 531. 573
 Title by escheat, I. 488 to 505
 — by occupancy, I. 506. 584 to 590
 — by forfeiture, I. 507 to 513. 590
 — by alienation, I. 513 to 584
 — by custom, I. 593-4
 — by judgment, &c. I. 594-5-6
 — by gift, grant, contract, I. 596, &c.
 — bankruptcy, I. 614 to 664
 Titles confirmed, I. 187. 505. *Ad.* 151
 — pretended selling of, II. 604
 Toll, exaction of, II. 613. *Ad.* 96
 Tourn of sheriff, II. 1122-3-4. *Ad.* 135
 Trade, partnerships in, I. 556 to 563
 — offences against, II. 671 to 737
 Traders' settlements, I. 563
 — heirs, devisees, II. 337
 Transportation, II. 1220 to 1239. 1247
 to 1250
 Transubstantiation, declaration against,
 I. 292
 Treason, high, II. 470 to 483. 542. 1199
 to 1206
 — misprision of, II. 544 5
 — petit, II. 907
 Trees, see Larceny. Mischief. *I* 447
 Trespass, action of, II. 144 to 152
 Trial, by record, II. 230
 — by certificate, II. 231
 — by jury, II. 231 to 264. 1199 to
 1214
 — where to be, II. 1167 to 1184
 Trinity-term, II. 182 3
 Trusts, I. 537-8. 577. II. 345-6-7. 354
 Tumults, see Riot. Mischief.
 Tumultuous petitioning, II. 655
 Turnips,

Turnips, larceny, II. 949
Turnpikes, I. 272, &c. II. 1039, &c.
Twentieth part, I. 170

U

Uniformity of worship, I. 324-5. II. 376 to 385
Union, act of, see 39 & 40 Geo. 3. c. 67.
Eng. in Chronological Table.
United brethren, II. 261
—— Englishmen, &c. II. 644 to 654
Unlawful assemblies, II. 617 to 658
Unlawful oaths, II. 522-3. *Ad.* 93
Unnatural crime, II. 918
Use and occupation, II. 157
Uses, charitable, I. 510
—— and trusts, I. 536-7. 577
Usury, I. 515-6. II. 695
Uttering, see Coin. Forgery.

V

Vagabonds, vagrants, II. 767 to 791
Venire, see Jury. Jeofails
Venue, II. 215. 283-4
Verdict, II. 276 to 286
Vestries, I. 352
Vicars' maintenance, &c. I. 319 to 322
View, in real actions, II. 217
—— by jurors, II. 249
Violating queen, &c. II. 471
Visiting corporations, I. 427
Volunteer forces, I. 370, &c.
Voucher, II. 218-9

W

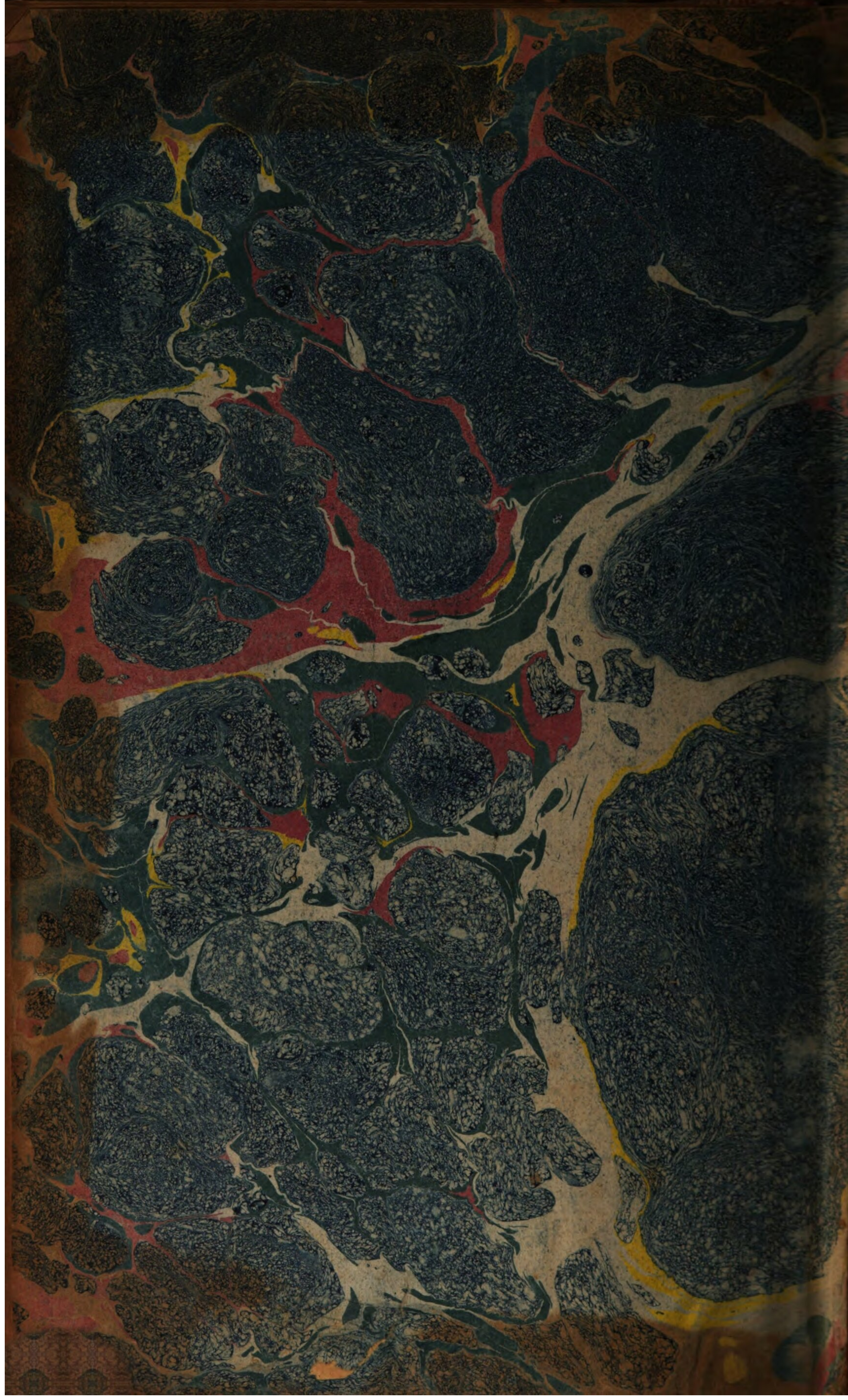
Wager of law and battel. *Ad.* 77
Wagering policies, I. 600-1-2

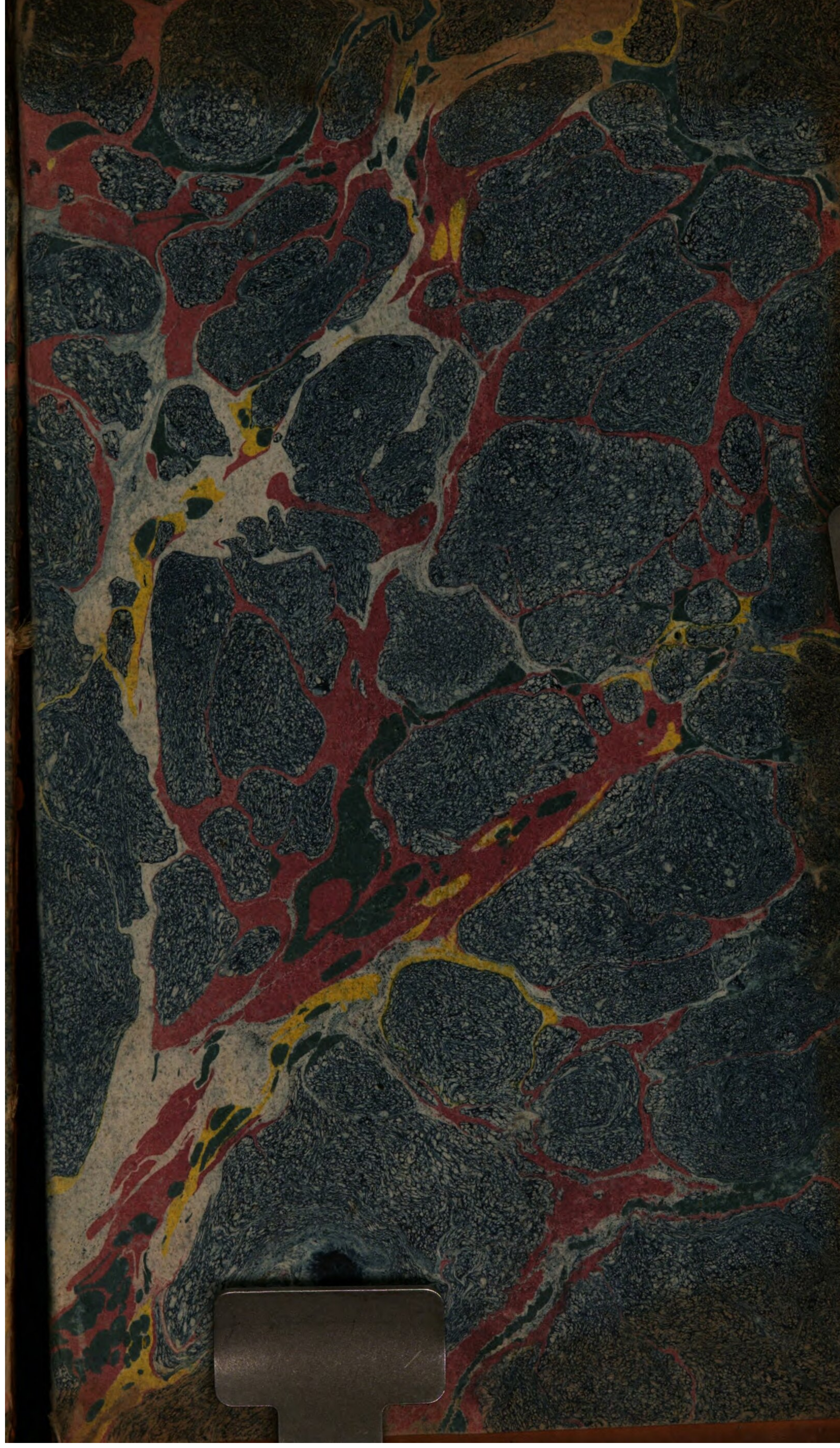
Wages of servants, &c. I. 389 to 392
Wandering soldiers, &c. II. 753
Ward, guardian and, I. 418-9. 445
—— ravishment of, II. 106
Warranty, I. 518-9
Warrant of attorney, II. 282
—— where executed, II. 1137 to 1146
Waste, action of, II. 153-4
Wears, nuisances, II. 756-7
Weights and measures, I. 160, &c. II. 696, &c.
Wharfs, larceny, II. 992-3
Whiteboy act, II. 629
Wills, of lands, I. 581 to 584
—— of personalty, I. 657 to 664
Wine, adulterating, II. 748
Witchcraft, II. 444
Withdrawing from allegiance, II. 481
Witnesses, II. 100. 259 to 263. 1206-7-8.
Ad. 103. and see particular heads.
Women, judgment against, II. 1240
—— relieved in equity, *Ad.* 86
Wool, II. 671-763
Words, action for, II. 223-4
—— prosecution for, *Ad.* 120
Wrecks, I. 188. II. 958 to 977. *Ad.* 122-3
Writs, II. 190-1-2. *Ad.* 60. 71. and see particular heads.

Y

Year and day, II. 1188-9
Year, day, and waste, II. 1241-2
Yelverton's act, see Preface
Yeomanry, I. 370 to 373

F I N I S.





Gabbett, Joseph

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